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VOLUME XXXIV
1940

GEORGE BANTA PUBLISHING COMPANY
MENASHA, WISCONSIN
1940

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The American
Political Science Review

VOL. XXXIV FEBRUARY, 1940 NO. 1

THE ADAPTATION OF ADMINISTRATIVE LAW AND PROCEDURE TO CONSTITUTIONAL THEORIES AND PRINCIPLES*

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I

Frank J. Goodnow, one of the founders and the first president of the American Political Science Association, predicted many years ago that the era of constitutional controversies, when most of the great national legal and political issues in the United States centered around the interpretation of the provisions of the Constitution, would gradually be replaced by an era when the foremost issues of the time would be concerned with the scope, efficacy, and significance of administrative law and procedure. Issues of constitutional construction, however, have a tendency to persist in the operation of the American federal system of government. And the effort to reorganize the federal judicial system in 1937 aroused a new interest in constitutional history, principles, and theories. But it is true, nevertheless, that one of the matters of major importance today in the internal affairs of government is concerned with the development of administrative practices and techniques, as well as with the adaptation of administrative legislation and adjudication to constitutional theories and principles.

For many years, administrative law and procedure grew in Anglo-Saxon countries without any special consideration being given to its development. Albert V. Dicey's insistence that there was no such thing as the French *droit administratif* in England seemed to satisfy the lawyers and publicists, and it was taken for granted in Anglo-American countries that there were no real issues or legal

* Presidential address delivered before the American Political Science Association at its thirty-fifth annual meeting, Washington, D. C., December 29, 1939.

problems involved in the administrative process differing from the ordinary features of the application of the common law ideas of the administration of justice and of the supremacy of the law. The pioneer work of Goodnow, Ernst Freund, and others made only slight impressions on the legal profession, but gradually prepared the way for a new type of instruction and the consideration of problems in public administration and in public law.

When lawyers and judges a few decades ago became aware of the scope and significance of the work of administrative agencies, with the development of what appeared to be a fourth branch of the government, criticisms and invective were directed against the so-called "new despotism" or "bureaucracy triumphant." The criticisms of Lord Hewart and others in England led to a parliamentary investigation and to an authoritative repudiation of most of the objections which were raised. Parliament retains its supremacy and delegates powers freely to administrators under such conditions and subject to such safeguards as are deemed expedient. In the United States, James M. Beck and Chief Justice Hughes were foremost among those who raised similar objections to administrative justice. But in this country, by virtue of the fact that the Chief Justice and the Associate Justices, who, with a few exceptions, followed the leadership of the Chief Justice, exercise judicial, executive, and legislative powers, as the occasion seems in their opinion to require, the objections to the legislative efforts to delegate powers have become for the time being a part of the fundamental law. Thus the judicial enlargements and extensions of the separation of powers doctrine, combined recently with a new concept of fair play extracted from the due process of law clauses, will be a part of our public law until the federal Constitution is amended or until another bench of judges deletes these new doctrines from the constitutional gloss.

The attack upon administrative law and procedure as it has developed in the United States has recently become more vigorous and assertive and has resulted in a series of proposals to limit and to control administrative action. With the prevalence of common law ideas of the supremacy of the law, and with the extensive and in many respects quite effective review of legislative and executive acts to make sure that they conform with juridical notions of the meaning of the Constitution, some of these proposals involve a radical departure from the prevailing ideas and practices in the

administration of public affairs in a country in which the government has a popular basis and sanction. It is appropriate, therefore, to examine the relations of the current tendencies and practices in the growth of administrative justice to constitutional theories and principles. Let us turn, first, to the theory of the separation of powers as it applies to and affects administrative justice, and to the transformation of the significance of this theory by the process of judicial interpretation.

We have only recently begun to give special consideration to, and to evaluate, the process of interpretation or the ways and means whereby groups and interests seek to warp the language and meaning of a written constitution to accomplish their desired ends. The eighteenth-century political philosophy, from which the written charter as a basis for a governmental structure evolved, attributed a certainty and efficacy in the adoption of such charters for the purpose of the establishment of good and stable governments which the experience of a century and a half has demonstrated to be in many respects illusory. But from the American experience with written charters, which has been more fortunate than that of many other countries, has come an attitude or point of view in interpreting these charters which has led to both confusion and misrepresentation. Those with certain political or economic predilections who have sought to attain what in their opinion were deemed to be desirable political objectives have as a rule followed in the footsteps of Chief Justice Marshall, who, when using language that was far from definite and specific to read into the federal Constitution the doctrines of federalism and nationalism, insisted that it was the will of the law and the Constitution only which he was expounding and applying. Thus was begun and gradually fostered the notion that has been relied upon in support of a variety of causes, namely, that for the judges the words of the Constitution have one, and only one, meaning; or, to use the customary phrase, "the Constitution speaks with the same voice now as when it came from the hands of its framers."

The process of interpretation, however, is by no means so obvious and simple as it is frequently made to appear. It is apparent, as the exponents of realism or functionalism in jurisprudence have repeatedly pointed out, that the method of procedure whereby judges determine whether the facts of a particular case fall within the rule, principle, or standard deemed pertinent to the case,

involves a mental process in which the words are mere symbols for intricate and complex modes of thought. Language is, therefore, not merely the instrument by which we think, but it directs our thinking into certain paths. Taking the words as symbols, the judge whose duty it is to apply them must re-expand or recreate the thought that they were intended to, or really do, convey. Viewing the procedure of legislatures in the making of laws and of courts in their interpretation, with the differences of personality and community interest as well as the differences caused by the lapse of time and change of environment, it is obvious that words are far from fixed things. A word, in the language of Justice Holmes, is "indeed not a crystal transparent and unchanged; it is the skin of a living thought and may vary greatly in color and content according to the circumstances and the time in which it is used." It is the fluidity of words and of their adaptability as circumstances require to the varying interests and desires of the interpreters that has accounted for the glosses which have grown upon certain doctrines or phrases included in the federal fundamental law.

Though many of the provisions of the Constitution have been molded or expanded by means of interpretation, a few principles or phrases such as the separation of powers, due process of law, and interstate commerce have been especially susceptible of change by judicial construction to carry out the purposes or objectives of dominant modes of thinking during different periods of American history.

II

It is a truism to state that the American constitutional system rests upon the fundamental doctrine of the separation of the three powers of government. But much depends upon the peculiar content which is read into that doctrine and the time, place, and circumstances under which the departments of government appropriately concerned interpret and apply the doctrine. Much of the discussion and comment relating to the separation of powers takes it for granted that the theory, as incorporated in state and federal constitutions, was substantially the same theory as is now interpreted and applied by the courts. And it is also assumed that judicial review of legislation, as understood and applied today, was combined with this theory to set up an effective system of checks and balances to restrict majority rule in favor of the interests of minorities and, in particular, to safeguard personal and property

rights. But it is plain that the original American theory of the separation of powers is quite different from modern concepts presumed to emanate therefrom. And the doctrine of judicial review of legislation as formulated in the late eighteenth and early nineteenth centuries was in few respects comparable to modern ideas and practices now prevailing with respect to the application of this doctrine.

Though Montesquieu's theory of the separation of governmental powers was included as a feature of early state and federal constitutions, it is well known that the theory at this time had little practical effect on the operation of the state governments. For nearly a century, legislative, executive, and judicial powers were freely and persistently mingled. Legislatures acted as courts of final resort, and in many respects exercised a partial supremacy over the other departments. Powers of every description were delegated freely to executives, and at times to courts, with only a few cases of refusal by the judges to enforce the legislative mandate, primarily to protect their own privileges and powers. Only occasional attempts were made to classify powers according to their intrinsic nature. During this century, with a few exceptions, the theory of the separation of powers meant that powers not expressly vested by the Constitution in either of the departments might, regardless of their nature, be assumed by the legislature or delegated to other agencies as the legislature might see fit. Justice Story stated the prevailing view regarding the separation theory during the early decades of American history in the dictum that "when we speak of the three great departments of government, and maintain that that separation is indispensable to public liberty, we are to understand the maxim in a limited sense . . . i.e., the true meaning is that the whole power of one of these departments should not be exercised by the same hands, which possess the whole power of either of the other departments." With only a few exceptions, the makers and interpreters of our first constitutions apparently had notions in mind approximating the prevailing French idea of a separation of functions rather than a separation of powers as currently understood.

It was not until the period preceding and following the Civil War that state justices, seeking grounds to check the growing tendencies toward the popular control over political and economic affairs, turned to the theory of the separation of powers, as well

as to the due process of law clauses as convenient phrases to check the exercise of legislative and executive powers deemed unwise. And a review of state and federal judicial decisions indicates that the sanctification of the doctrine of the separation of powers as a constitutional principle to foster and maintain the policy of governmental *laissez-faire* is largely the product of American constitutional interpretation during the latter part of the nineteenth century. Justice Holmes at one time defined the constitutional concept of the police power as a convenient device to accomplish ends in the way of interferences with personal and property rights which would otherwise be inhibited by constitutional limitations. In a similar manner, justices who considered legislative and administrative action objectionable from the standpoint of their own political and economic views found the separation of powers an appropriate device to place obstructions in the way of the incipient efforts to bring under control some of the unjust and destructive tactics of an industrial régime which were beyond effective control by the ordinary legal processes.

Thus when the states undertook, by way of legislative and administrative action, to establish effective health and sanitary laws, to foster irrigation projects, to regulate public utilities, and to improve the social and economic conditions of the people, many of the beneficent measures enacted by the legislatures were held void as violating the principle of the separation of powers. Excessive ideas of independence and of superiority on the part of the judges which had occasionally been expressed in earlier decades with little effect on public administration were now more frequently embodied in judicial opinions with respect to the regulation of social and economic affairs, with an attitude of assertiveness bordering sometimes on the verge of arrogance. But the increasing necessity for public control along these lines and changing judicial attitudes gradually brought about a reversal of the earlier decisions and the approval by state judicial tribunals of grants of legislative, executive, and judicial powers to administrative agencies. To maintain a semblance of consistency, the terms "quasi-legislative" and "quasi-judicial" were frequently used. The constitutions, in accordance with the theory of the separation of powers, did not permit the delegation by the legislature of legislative and judicial powers to administrative tribunals, but no such prohibition applied to the grants of quasi-legislative or quasi-judi-

cial powers. A *modus operandi* had been discovered to approve action which appeared to the judges desirable and to condemn similar action when it was considered undesirable. Thus the separation of powers doctrine supplemented the pliancy of due process of law to extend judicial control over legislative and administrative acts. The separation of powers doctrine, however, was not made a vital part of federal public law until several decades later with the epoch-making decisions in the Panama Refining Company Case and the Schechter Poultry Corporation Case.

In analyzing the efforts to establish definitive relations among the three departments of government, it is customary to ignore the fact that although the federal Constitution declares that this Constitution and the laws and treaties enacted in pursuance thereof shall be the supreme law of the land, it does not declare, as John Taylor of Caroline and others in our early history as a nation demonstrated, that it is the lawyers' interpretation only of that law that is supreme. Moreover, though the Massachusetts constitution provided that there was set up in that commonwealth a government of laws and not of men—a phrase frequently recurred to—this did not mean that it was lawyers' law only that was to prevail in the government of that state. Lawyers at this time, it is well known, were in none too good repute among those who regarded themselves, as clergy and laymen, to have full authority to make and, if necessary, to interpret laws. Woodrow Wilson recognized this fact when he spoke of the federal Constitution as the vehicle of the life of the nation and not a mere "lawyers' document."

It is important to realize also that the claim of the judiciary that it is the exclusive province of the judges to construe and interpret the constitutional limits on the coördinate departments of government is an assumption or postulate concerning which there was considerable doubt and uncertainty for almost a century after 1787. There were occasional expressions of opinion by the Federalists similar to that of Chancellor Kent in Dash v. Van Kleeck that it is "the sense of the American people that the right to interpret the law does and ought to belong exclusively to courts of justice." But Alexander Hamilton, along with many other Federalists, despite his eloquent plea favoring the authority of the courts to review legislative acts as a means to preserve and protect the federal Constitution, conceded that the legislative department

had the right to place its own interpretation on the Constitution similar to the current practice in England. And James Madison, who is generally referred to as the ablest exponent of the doctrine of the separation of powers at the time of the formation of the Constitution, emphatically expressed the opinion in the First Congress, which is frequently forgotten or ignored, that Congress had an equal authority with the courts to place a final and conclusive interpretation upon the Constitution, at least so far as its own powers and those of the Executive are concerned. When judicial review of legislative and administrative acts is being extended to new and unaccustomed fields, and it is being urged that further extensions be made, it is well to keep in mind that judicial review itself, so far as legislative acts are concerned, was made a part of our fundamental law through the process of judicial interpretation.

There is no definite or express requirement in the Constitution that one department be accorded greater authority than another in the interpretation of the fundamental law. It was in accord with this hypothesis that Presidents Jefferson, Jackson, and Lincoln refused to regard themselves as bound by interpretations placed upon the Constitution by the Supreme Court. The doctrine of judicial supremacy, so far as constitutional construction is concerned, advanced chiefly by the Federalists after the policies of the party had been repudiated by the nation, by frequent assertion and repetition was gradually accepted by all parties. But judicial supremacy as historically understood and applied did not, except to a few extremists, go so far as to give sanction to the notion of a virtual monopoly of interpretation and application of the law by judges. It is the transformation, by means of the separation of powers theory and other constitutional phrases, of notions of judicial supremacy into concepts of legal and judicial monopoly in the interpretation and application of the law that is the most significant feature of recent discussions on administrative justice.

Many of the current comments and observations regarding the weaknesses of administrative justice, which take such a legal and judicial monopoly for granted, are predicated on an assumption which, if clearly stated at the beginning, would clarify the discussion of the issues involved. Foremost among the assumptions in the literature on administrative tribunals is the claim that if finality of decision on the facts and, to a limited extent, on the law

is granted to administrative agencies, a form of administrative absolutism has thereby been set up. But finality of decision in countries where democratic principles and practices prevail, except for the determination of issues by the people through constitutional amendments, must be placed in some public authority. Recognizing the ultimate authority of the people to override by constitutional amendments existing agencies and methods of procedure, there may be established a form of finality of decision on the law and the facts in the courts and hence the establishment of a type of "judicial absolutism," or such authority may be accorded to executive and administrative agencies in what may be termed "administrative absolutism," or the final decision, as is the practice in countries where legislative supremacy prevails, may be placed in the legislature with the acceptance of a type of "legislative absolutism."

The real issue at stake is the one argued at length in the famous Judiciary debate of 1802 in Congress, whether a governmental mechanism should be provided in such form that the people could rule by such agencies as they might wish to establish, or whether the written charter serving as a foundation for the government should be so interpreted and expanded in meaning as to set up a delicately balanced system with the judges as final arbiters. Those who have desired to place checks upon the authority which the people may exercise in the affairs of government have favored judicial review of legislation to place a barrier against legislative arbitrariness or absolutism. And in the same manner forces are now operating to place checks upon what is regarded as administrative finality or absolutism. But it should not be overlooked that in replacing these types of absolutism we are setting up another form of absolutism. One may justly and reasonably prefer a judicial despotism to a legislative or administrative despotism. And there are many of this way of thinking who laud the aristocracy of the robe, or the supremacy of judges, which has been established in the United States. As a matter of fact, however, phrases such as "administrative absolutism," "administrative despotism," or "wonderland of bureaucracy," are used primarily to prejudice the minds of the people against administrative methods and procedure, and at the same time to conceal the real motive, namely, the assurance of a type of legal and judicial finality with respect to all of the fundamental matters relative to life,

liberty, and property. Strong and well-organized interests are determined to sustain and extend this kind of finality because they fear, and propose to check as far as possible, popular control over political affairs. Having attained a large measure of control over legislation, their primary objective at this time is to limit the scope and to canalize the proceedings of executive and administrative officers.

Attorneys for such interests and members of the bar who frequently consider administrative justice primarily from the standpoint of the increase of business for the members of the legal profession insist that the atmosphere of inquiry before boards and commissions, as well as before all officers who render quasi-judicial determinations, should be contentious, as it is before a court, with a full hearing and counsel employed on both sides. But is the adversary, contentious, or "cockfight" method of securing justice—as the common law trial procedure has been called—the only method that may reasonably and advantageously be employed by public officials in carrying out the discretionary or quasi-judicial functions which modern governments are expected to perform? Are there not fields in which the adjustment of a particular type of public and private relations may more appropriately be made by informal or arbitral procedure, with the administrator serving in the rôle of arbitrator? A cursory examination of legal history brings out the fact that arbitration and conciliation are among the oldest, and have always been the most rational and effective, methods of adjusting many types of civil disputes.

"Courts are not the only agency of the government that must be assumed to have the capacity to govern," asserted Justice Stone in his dissent in the Agricultural Adjustment Act Case; and he objected to an "interpretation of our great charter of government which proceeds on any assumption that the responsibility for the preservation of our institutions is the exclusive concern of any of the three branches of government." It is, however, apparent in the recent tendencies to limit and to circumscribe the activities of administrative tribunals that there is a lack of anything like legal or judicial self-restraint. The supervisory function exercised by the courts over administrative agencies is based upon concepts, principles, and standards which are often notoriously vague and are susceptible of a great variety of interpretations. It is assumed that judges are the only ones who know what is fairness and reasonable-

ness in official action, and who appreciate what are the requirements of the operation of the rule of law. Judges may act upon vague standards and principles or upon mere general concepts of fair play in controlling administrative action, but administrators must be confined and controlled by definite and well-known standards prescribed in advance. Courts may or may not make findings of fact and conclusions of law, and may or may not state the reasons for their decisions. Such a privilege, however, is to be denied to all administrative agencies rendering quasi-judicial decisions. Extensive rule-making or legislative authority is conceded as belonging to the courts, or is granted by statute, and the rules formulated by judges are regarded as having legal effect whether or not private rights are adversely affected. Of all public officers, judges are the only ones who are to be accorded the privilege of exercising an uncontrolled discretion. No such dominance of one department of government over the others was envisaged in the adoption of written constitutions containing a separation of powers doctrine.

III

Because of the presumed threat to the monopoly as to the application and interpretation of the law which many lawyers and judges think is rightfully theirs, a widespread and energetically directed attack is being made on the present trends and tendencies in administrative justice. In dealing with certain phases of this attack manifested in judicial decisions, in the actions taken by a majority of the members of some bar associations, and in an increasing amount of literature on the subject, I wish to make it clear that I realize that there are many members of the bench and bar who do not agree with the current objections to administrative law and procedure. It is with the prevailing sentiment of the profession that the ensuing comments and observations are primarily concerned. Though certain members of the legal profession have frequently viewed with grave concern the establishment of new administrative agencies, the pressure for the creation of such agencies whereby special technical skill may be developed and applied through the delegation of administrative and judicial powers to executive and administrative officers has been so great that many new tribunals have been authorized in recent legislation. In the words of Dean Landis of the Harvard Law School, "the adminis-

trative process is, in essence, our generation's answer to the inadequacy of the judicial and the legislative processes."

Many members of the bar, however, became alarmed at the establishment of new federal administrative tribunals with broad powers of determination both of the law and the facts in order to meet the emergency conditions created by the economic depression of 1929–33. To analyze and report on the legal effects of the creation of these and similar administrative tribunals, the American Bar Association appointed a Special Committee on Administrative Law. In its first reports, the Committee called attention to the failure to provide for judicial review of executive or administrative acts in certain provisions of the National Industrial Recovery Act and of the Agricultural Adjustment Act. The greatest danger, in the opinion of the Committee, was manifested in the provision of the Economy Act of 1933 dealing with veterans' benefits which declared "administrative decisions to be final and conclusive on all questions of law and fact, and no other official or court of the United States shall have jurisdiction to review by mandamus or otherwise any such decision." Vigorous opposition was expressed regarding the tendency in this and other acts to combine the judicial with legislative or executive powers, and it was declared that decisions of the settlement of controversies of a judicial character must be brought back into the judicial system. To accomplish this result, it was maintained, first, that judicial or quasi-judicial functions of administrative agencies should be segregated and placed in an independent tribunal having the safeguards of judicial independence and irresponsibility, and, second, that the decisions of administrative officers should be subject to judicial review, not only on the law, but also on the facts. The active interest manifested in the attainment of these objectives by the American Bar Association led to similar movements in the states and encouraged allied organizations to join in protests against recent legislation creating new commissions or extending the jurisdiction of those engaged in the administrative services of the government.

Thus the movement to curb administrative officers and boards, which received encouragement and sanction by the decisions of the Supreme Court of the United States in such cases as Ohio Valley Water Company v. Ben Avon Borough, Crowell v. Benson, St. Joseph Stock Yards Company v. United States, Jones v. Securities and Exchange Commission, and Morgan v. United States, as well

as in similar decisions by state supreme courts, limiting the authority of administrative agencies with respect to conclusive findings of fact and requiring changes of procedure in making such findings, is being fostered almost with the fervor of a crusade. Lawyers are being advised to become aware of, and to join in checking, the tendency manifested by administrative bureaus and commissions to seek constantly from the legislature increased jurisdiction with, so far as possible, exemption from judicial review. This tendency is condemned as an unwarranted encroachment on the domain of judicial justice, though no objections are raised to a similar tendency on the part of the courts to increase their jurisdiction by judicial legislation.

But the most amazing phase of the current attacks on administrative law is the attempt to restore judicial review of administrative findings and decisions to large areas in which, from long experience with state and federal tribunals, the courts have accorded a practical finality to decisions of such tribunals. A spirit of distrust of executive and administrative officials such as that indicated in the comment of Chief Justice Hughes that "an unscrupulous administrator might be tempted to say 'let me find the facts for the people of my country and I care little who lays down the general principles' " is used as the background and justification for the contention that the courts must in practically all cases examine and form an independent judgment on the law and the facts. Thus the finality of fact-finding of some important administrative officers and tribunals, which has become the most significant and in many respects the most constructive phase of the development of American administrative law during the past half-century, is to be stricken down in favor of the rule that there must be either a trial *de novo* or a thoroughgoing examination of the law and the facts in the review of practically all administrative decisions.

The main objective of many individuals and groups which are convinced that the nation is headed in the wrong direction in the organization and procedure of its administrative agencies is to take steps by judicial and legislative methods to implement, as it is called, the present method of administrative rule-making, to divorce the judicial functions now exercised by these agencies from the legislative and executive functions which they perform, and to provide for a broader and more effective type of judicial review of administrative action.

The most significant proposal to accomplish the above ends which may not be thoroughly and systematically accomplished through the process of judicial interpretation is embodied in the measure sponsored by the American Bar Association. The Committee on Administrative Law of this Association, which formerly advocated the enactment of an administrative court measure, later prepared and sponsored a bill of its own and, with the approval of the Association, arranged to have the bill introduced in Congress. By the Logan-Walter bill, which was passed by the Senate and recommended for passage by the Judiciary Committee of the House of Representatives during the first session of the Seventy-sixth Congress, the Supreme Court is authorized to prescribe uniform rules of practice and procedure for the quasi-judicial proceedings of federal administrative officers, bureaus, and commissions. The Court of Appeals of the District of Columbia is constituted a super-administrative agency with the power of veto over administrative rules and regulations. For all rule-making affecting property or civil rights, there is a mandatory requirement of notice and public hearings.

An important provision of the bill makes it mandatory for any federal officer or agency which renders quasi-judicial decisions to establish an intra-departmental board. To such board, presided over by a lawyer, anyone feeling aggrieved by a decision or failure to act on the part of any employee or agency may appeal. In such appeal there must be a formal hearing, with a written record of testimony, opportunity to examine and cross-examine witnesses, and it is necessary to prepare written findings of fact. And finally there must be a written opinion or order which may form a basis for subsequent hearing and decision by the head of the administrative agency, or for the courts if the decision eventually becomes a matter in issue before a judicial tribunal authorized to review such administrative decisions. The Circuit Courts of Appeal are granted the authority to review a final decision or order of any federal administrative agency or intra-departmental board, and may reconsider and set aside the findings of fact of the agency or board as well as give a judgment on all issues of law. These judgments shall be final unless reversed by the Supreme Court. The Interstate Commerce Commission and probably the Federal Trade Commission are to be exempted from the proposed rigid procedural requirements, which indicates that current criticisms

are directed chiefly against the procedure of recently established federal administrative agencies. The recommendation for the establishment of intra-departmental boards to be presided over by a lawyer for the hearing of administrative appeals, with review both of rule-making and administrative decisions by the courts, in addition to all of the existing types of the review of administrative action which are to remain in effect, is made, although it is conceded that the plan will increase appeals both within the department and before the reviewing courts, and it is also conceded that multiple appeals are an unfortunate feature of American legal procedure which ought to be avoided. Sponsors of the bill have announced that at the earliest opportunity they propose to take the necessary steps to secure for these intra-departmental boards an independent status within the departments as nearly as possible after the model of the constitutional courts.

It is admitted by the advocates of this bill that the separation of powers doctrine in itself is not a secure and efficacious basis to require such a segregation of judicial from legislative and executive functions. Hence the Supreme Court of the United States is commended for appealing to what seems to be the underlying implications and the natural corollaries, not only of this doctrine but also of the common law ideas of fair play presumed to be embodied in the phrase "due process of law," in order to find more effective limits for administrative action.

These essential implications and corollaries are declared to be:

(*a*) No man should be permitted to be judge in his own case, that is to say, the combination of judge and prosecutor and, *a fortiori*, the combination of judge, prosecutor, and legislator should be avoided so far as possible;

(*b*) All officers who participate in judicial or quasi-judicial action should enjoy a tenure of office and assurance of compensation as free as possible of control by the executive and legislative branches;

(*c*) The final control and review of judicial decisions, by whomever rendered, should be lodged in the judicial branch of the government, that is to say, the constitutional courts; and to the extent that this is not permissible (e.g., on certain questions of fact) review should be lodged in one or more independent tribunals resembling the constitutional courts as closely as possible.

In so far as these implications and corollaries may not be fully and effectively required by the separation of powers theory, the opponents of the powers now exercised by administrative tribunals and of the procedure customarily followed by them approve the

decisions of the Supreme Court to the effect that arbitrary delegations of power constitute a denial of rights safeguarded by the due process clauses of the Fifth and Fourteenth Amendments. In fact, there are some who contend that the varying and uncertain meanings attached to the separation of powers theory make the due process clause a much more appropriate means of confining administrative tribunals within the channels which will meet with judicial approval. And the limitations thus prescribed by judicial decisions are to be greatly augmented by proposed legislative enactments designed to carry into effect the spirit and implications of the constitutional mandates.

The primary assumption of those who insist that there must be no interference with judicial review of the broadest kind, both of the law and of the facts as found by administrative agencies, is that such review is necessary to retain and render effective the common law protection and safeguards for the preservation of personal and property rights. In the first place, these so-called "safeguards" of the common law were not a part of the common law as it developed in England, and they do not now stand in the way of effective delegations of power to administrative officers in England. And in the second place, these "safeguards," so far as they have become a part of American law, are recent discoveries which the courts have made and have declared to be a part of the American common law presumably embodied in constitutional phraseology in order to place barriers in the way of the successful administration of public measures supported by insistent popular demands.

The reading of these newly discovered common law ideas of fair play into the Constitution by Chief Justice Hughes in the Morgan Cases, and extracting them from the separation of powers theory and the due process of law clause, is similar in many respects to Justice Field's successful effort to read into the fundamental law the Declaration of Independence and Adam Smith's economic doctrine of *laissez-faire*. No one has given a satisfactory definition or exposition of the separation of powers theory or of the term "due process of law." The method adopted by the courts of definition by judicial inclusion and exclusion leaves much to be desired. Furthermore, in the consideration of the efforts to formulate a common law mold for the action of all federal administrative officers, boards, and commissions in the United States, it should

be noted that it has been authoritatively held by the Supreme Court that there is under our constitutional system no such thing as a federal common law. The federal Constitution at no place expressly sanctions the underlying principles and corollaries of the common law, and when Federalist judges attempted to engraft the common law upon the Constitution, the movement was resisted by the leaders of the Democratic-Republican party and the Republican doctrine was eventually approved by the Supreme Court. No greater revolution in constitutional construction could be conceived than to enlarge the scope of federal powers or to prescribe the limitations applicable thereto in accordance with the doctrines, principles, and concepts of the common law.

Despite the insecure constitutional basis and the somewhat devious methods of procedure adopted to accomplish the desired ends, something in the nature of a common law "straight jacket" is being constructed into which administrative action must fit to conform to the standards of legality, whereas most of the administrative agencies to which these standards are to be applied relate to conditions which were unknown to the common law. Moreover, many of the statutes providing for administrative procedure were designed to provide remedies in fields in which the customary legal methods had failed to render effective, expeditious, and inexpensive justice. Regardless of this fact, the employment of counsel and the assurance of formal judicial procedure according to common law standards are demanded by the opponents of administrative justice. Thus the simple, direct, and expeditious handling of affairs by administrative officers is held up to scorn, no matter how much more advantageously individual and social values may thereby be protected and preserved.

The claim is made by those who wish to separate the judicial from the legislative and executive functions of administrators and to assure full judicial review for all phases of administrative action that no reactionary position is assumed and that the ill-adjustment between law and administration which prevailed during the latter part of the nineteenth century is not to be restored. All that is demanded, so it is maintained, is the safeguarding of individual interests, the preservation of the check and balance ideas involved in the common law doctrine of the supremacy of law, and the requirement that a form of judicial finality or supremacy be enforced as a phase of the constitutional separation or distribution

of powers. But it is not so much the constitutional separation of powers which is to be preserved as it is the judicial gloss which has been superimposed upon that doctrine to give the lawyers and the courts the final word in determining both private and public rights. In answer to the contention that the common law is hostile to administrative action, it is claimed that the main objective of the common law is to prevent the arbitrary and capricious exercise of administrative powers. It is noticeable, however, that all action affecting certain rights and interests is assumed to be arbitrary unless such action is taken by judges, and it is taken for granted that the decisions of judges, regardless of their scope and effect, are necessarily judicial and, therefore, reasonable.

The nature of the supremacy sought is forcefully stated in the contention that in the American system of government administration is under and a part of the legal order and that the political order is not outside of and above the legal order. We have, if this reasoning in its extreme form is correct, not a government of, for, and by the people, but a government of, for, and by the lawyers and the clients they serve, whereas it has been pointed out by lawyers as well as by many others that there are millions of people whose rights and interests are not protected by the legal profession. Law, in this way of thinking, is not a means to an end. It is an end in itself. And not only must all private and public interests be made to conform to this superior legal order, but this order must prevail regardless of its effect on the public welfare or whether it runs counter to repeated and unmistakable expressions of the popular will. Evidently the doctrine of a higher law to which all political action must conform is appearing under a somewhat different guise.

Though no such system was provided for nor is required by any of the express language of the federal Constitution, it is seriously contended, nevertheless, that administrative tribunals must be adjusted in the United States to the American judicial tradition, i.e., to the supremacy of the law. And this supremacy is now interpreted not only to require the dominance of lawyers' law, but also to require a monopoly of the lawyers in the interpretation and application of the law.

The insistence that disputes be settled by lawyers whether or not intricate and technical legal issues are involved may not come within the prohibitions of the anti-trust or anti-monopoly laws.

But the demand that lawyers should have the sole right to settle certain types of disputes, as well as some of the monopolistic tendencies in the practice of the law and in legal education will, I am sure, when the matter is given full consideration and publicity, be inhibited by a public sentiment that will not sanction so large a control of public affairs by any single, select, and closed order—an order containing many unselfish, public-minded, and distinguished citizens who are deeply concerned with the public welfare, but some of whose members appear to be concerned primarily with the preservation of the rights of clients that have ample funds to engage in the slow and tortuous processes of expensive litigation.

There are few who would undertake to deny that the necessities of the present situation require the turning over of a large part of the fact-finding and the preliminary determination of matters of law to administrative officers who must act in a measure, at least, as law-makers, as executives who apply the law, as well as the judges who determine its meaning under the particular circumstances. The fact that administrative tribunals so constituted frequently settle, in an informal, expeditious, and effective manner ninety per cent or more of the controversies that come before them, without any objections or attempts to appeal from their decisions, and that only a small part of the remaining issues go through the course of actual litigation in the courts, indicates that the procedure itself is essentially sound and secures a type of justice and fairness in resolving disputes affecting personal and property rights that cannot be dispensed with. The procedure in many respects is in need of improvement, but to move in the direction of the requirement that all issues involving fact-finding and all those concerning preliminary determinations as to the meaning and application of statutes must go to the courts or to other quasi-judicial tribunals, wherein common law methods of hearing, trial, and judgment are in vogue, is to turn the hands of the clock backward, to reëstablish a status of political, social, and economic *laissez-faire* in which only the favored few can have their rights adjudicated.

IV

The ideal for administrative justice of a body of experts pursuing objective and scientific methods in dealing with the law and the facts with respect to a given set of civic relations is, it is true, frequently not fully realized. But the customary insinuations re-

garding the type of training, qualifications, and ideals of administrators fail to give due credit to the host of men and women who have entered the public service with the best qualifications attainable for the work to be performed, and who at a considerable sacrifice in remuneration are devoting their lives to the carrying out of the objectives declared to be desirable by the representatives of the people. Administrators are often compared unfavorably with the members of the bench because there is no such uniform guarantee of training for their tasks as there is in the case of judges selected from the bar. But what has been the training of judges? Has it not been, as a rule, the protection and the preservation of the private interests of clients? And is this a specially desirable training for officials who are expected to preserve and protect the public interests and public welfare, and who are called upon to use and develop informal, expeditious, and non-contentious procedure characteristic of many phases of administrative action?

One of the common contentions of the critics of our modern administrative mechanism is that administrators lack the necessary independence and objectivity to render decisions affecting the rights of person and property, and that they are too frequently dominated by personal or political motives. There is no way of proving or disproving this contention, but there is good reason to believe that a type of independence and objectivity approximating that of the judges has been attained in the practices and procedures of many administrative officers and agencies. In fact, many administrators are lawyers and have had the same kind of training as judges. Moreover, judges to a certain extent, just as members of administrative boards and commissions, have personal, political, and economic theories and principles which they seek to foster through their judicial decisions. The prevalence of political methods and influences in the trial courts of first instance is one of the discreditable phases of justice as administered by the courts, and there is room for much improvement in the procedure of courts as well as of administrative agencies. It is apparent that most of the objections raised against administrative justice apply to a certain degree to the practices and procedures of courts of justice.

A considerable part of the opposition to the present methods of administrative procedure is directed against the regulation itself, and not merely against the method of enforcement. And there are

many today who give the impression, at least, that they agree with the English Chief Justice who wished to see no administrative ventures in a field where the lawyer's training and precedents gave no guidance. Are we not being subjected to the recrudescence of the old and often discredited *laissez-faire* theory, with certain concessions to administrative agencies which will permit them to function in an ineffective and futile manner? The powers of administrative officers, boards, and commissions, it is maintained, are not to be reduced or interfered with; it is the procedure of such officers only which is to be reformed. But was it not the advantages of direct, non-technical, and expeditious procedure that led to many of the grants of authority to administrative agencies and that justifies as a rule the present powers which they exercise? And is it advisable to require in all cases involving the discretionary action of administrators affecting personal or property rights an elaborate, expensive, and time-consuming technique for the primary purpose of the preparation of a perfect record for the courts when an appeal is sought from administrative decisions?

In the administrative process, rule-making and the usual enforcement proceedings which follow cannot be separated from administrative adjudication without sacrificing in many instances efficiency and the advancement of the public interests sought to be protected by the legislative mandates. And it has been demonstrated in many fields that effective public regulation requires a joinder of all three of the governmental powers. The real choice is between effective regulation by the present type of officers, boards, or commissions or impotent public agencies circumscribed by a rigid application of the separation of powers theory combined with the newly construed restrictions in accordance with a modernized version of due process of law. Efficiency is not the only factor to be considered in evaluating the methods employed and the accomplishments of public administrators. It is necessary and indispensable for the public welfare that individual rights and privileges be protected. On the other hand, the protection of such rights and privileges may not be accorded to the few to the neglect of those of the many without giving encouragement and sanction to oligarchic in preference to democratic principles in the management of public affairs.

With a note of realism and practical insight often lacking in the comments and observations regarding the authority of adminis-

trative officers in the United States, the Committee on Ministers' Powers in England frankly recognized that there were conditions when the ministers or departmental boards should be granted authority to make final and conclusive findings on both the facts and the law. It was the opinion of the Committee that only emergency conditions or extraordinary circumstances warranted the denial of any appeal to the courts. For it is one of the sacred traditions of Anglo-Saxon political philosophy and practice that so far as possible the way should be left open for the citizen to litigate if he feels that his rights have been interfered with and he can afford to take the necessary steps to secure a legal determination of his claims.

With respect to most of the controversies involving administrative action, the Committee believed that the practice which now prevails in England should be continued, namely, that the findings of fact of administrative officers should be final and conclusive and that there should be judicial review only on questions of law. In exceptional cases, the Committee deemed advisable an appeal on the facts to a special tribunal within the department. The Committee thought that the tendency to exclude the courts from a review of legal issues arising in the exercise of authority by the departments and boards had gone too far, and that a more careful consideration should be given to measures which preclude or seriously interfere with judicial review. In the judgment of the Committee, it is advisable to separate as far as is possible and practicable the judicial functions within the departments from those that are not judicial in order to avoid the impression that officers enforcing the law become judges in their own causes. These recommendations, to which few exceptions could be taken by those who favor the administrative process as it has developed in the United States, are quite different from the proposals to cast all administrative agencies into a uniform mold, to demand judicial review of the facts and of the law, and to extend judicial review of administrative action to new phases of administrative legislation and adjudication. It is significant also to note that none of the important changes recommended by the Committee relative to administrative procedure has been enacted into law.

With a different approach to the problems involved, much of the discussion in the United States relative to the powers and procedures of administrative agencies, noted Justice Stone, "is reminis-

cent of the distrust of equity displayed by the common law judges led by Coke, and of their resistance to its expansion. We still get reverberations of these early fulminations in renewed alarms at our growing administrative bureaucracy and the new despotism of boards and commissions. So far as these nostalgic yearnings for an era that has passed would encourage us to stay the tide of needed reform, they are destined to share the fate of the obstacles which Coke and his colleagues sought to place in the way of extension of the beneficent sway of equity." Despite these "nostalgic yearnings," as predicted by Elihu Root almost a quarter-century ago, we shall go on, and we shall expand administrative agencies whether we approve them theoretically or not. Such agencies furnish a form of protection to personal and individual rights and place obstacles in the way of wrongdoing which under our new social and industrial conditions cannot be practically accomplished by the old and simple procedure of legislatures and courts. And the contention attributed to James Madison and renewed by Root in the address in which the above statement was made that the "governors shall be governed" and that the "regulators shall be regulated" is well on the way toward accomplishment. For the claim that administrative officers, boards, and commissions exercising quasi-legislative and quasi-judicial functions are in an irresponsible position is in fact not true. All of these official agencies are subject to a triple check by the legislature, which may reduce their appropriations or may amend the act granting them powers, by the executive through new appointees, and by the courts, for judicial review, though sometimes limited by the legislature in its grant of administrative authority, remains in most instances as a check upon extreme forms of unfairness in procedure or of arbitrariness in action.

These limitations and restrictions upon administrative action have, with few exceptions, brought about such reasonable safeguards for the rights of persons and property that there is no urgent need for the drastic methods proposed to reform administrative procedure by state and federal legislative action. I do not wish to be understood to favor unfairness or arbitrary action on the part of administrators; for I know that administrators, like judges, are at times inclined to err, and that checks and safeguards against unfair administrative as well as unwise judicial action are not only desirable but also indispensable. I question merely whether for

certain phases of governmental action the only desirable, appropriate, and effective check is the judicial check. In the instances where greater safeguards should be established, the legislative and executive departments have ample authority to provide the necessary remedies without turning over to the courts the control of such a large part of public administration.

V

Criticisms of administrative practices and procedure in the United States have been made as a rule without thorough investigation and consideration of the intricate and complex facts and conditions which appertain to this type of official action. No organization has undertaken the kind of survey and analysis, such as that which was made by the Committee on Ministers' Powers in England, which would furnish the basis for more intelligent and scientific conclusions than have been thus far formed on some of the controversial issues involved. The efforts to improve the present method of disposing of the controverted cases of automobile accidents illustrates the necessity of a careful investigation of broad and general factors of public policy as well as the effect of a change of administrative or legal procedure. A large part, and in some instances more than half, of the time of judicial tribunals is devoted to the trial of automobile accident cases. Partial, and perhaps inconclusive, studies have indicated that approximately as much money is expended in the trial of accident cases as is finally paid in judgments to those who have sustained injuries. And there are many who when injured cannot afford the delay or the expense of a court trial, and who must accept compromises with either no compensation or quite inadequate awards. There is good ground, therefore, for the contention that the present slow, cumbersome, and costly procedure before courts for the settlement of automobile accident cases should be revamped, if not entirely replaced by the settlement of these cases by special commissions established for this purpose. Much more intensive and extensive factual studies are needed to determine the most appropriate and efficient type of procedure in such cases so far as the protection of individual rights and the preservation of related public interests are concerned.

The usual method adopted by critics of administrative law in the United States is to gather varied and scattered types of evi-

dence and opinion to support predetermined postulates or conclusions, and then to try to fit all of the various and divergent administrative agencies into a preconceived mold. This is apparently what has been attempted in the preparation of the Logan-Walter bill. Though this bill has been approved by a number of state and local bar associations, it is significant that the National Lawyers' Guild, following the recommendations of a Special Committee, disapproved the bill, thereby advising the members of the Guild to oppose its enactment. The Committee, in its analysis of the bill, objected to the tendency throughout the measure to cast all administration into a uniform mold. The plan of permitting appeals to intra-departmental boards with the formal hearings required, along with the extension of judicial review of administrative findings and decisions, it is believed by the Committee, would paralyze the functions of government. And special objections were raised to the attempt by means of the bill to place such a large part of the supervisory functions of the executive in the hands of the judiciary. Thus certain members of the legal profession are joining with experts in the field of administration and with scholars versed in the principles and practices of public law to secure a more thorough study and analysis of the administrative process before such an extreme form of common law and legislative straight-jacket is superimposed upon all of the important federal administrative agencies.

But this bill is merely one of the concrete proposals which are being presented to Congress and to the legislatures of the states to remedy what are regarded as the chief defects of administrative tribunals. The American Bar Association's Special Committee on State Administrative Agencies and Tribunals has prepared some tentative conclusions and recommendations which are in a few respects more favorable to the present practices and procedure of such tribunals than the rigid requirements that are proposed to be applied to federal agencies. State and local bar associations have also formed committees to investigate and report upon the present powers and procedure of the officers exercising administrative authority in the state administration. Most of the measures suggested by these committees, and which are being submitted to the legislatures of the states, to remedy the alleged defects of these agencies have a singular likeness to the proposal before Congress, just as the decisions of the state courts are following the unfavor-

able attitude toward such tribunals manifested in some of the recent decisions of the federal Supreme Court. Regardless of the action which may be taken on these measures, the fundamental issues relating to administrative justice will remain to be determined. What are the most apparent and the most serious weaknesses of different types of administrative agencies? To what extent are these weaknesses to be attributed to unwise and ineffective methods of organization, and to what extent to inadequate and improperly trained personnel? To what extent, and along what lines, is it desirable to restrict or to extend the jurisdiction and the activities of administrative officers and agencies? And finally what are the most appropriate and effective adjustments which may be made in the establishment of the relations between the administrative agencies and the courts? Before satisfactory answers may be given to these and other pertinent questions, much data must be gathered and evaluated by individuals, by private organizations, and by public officers who have had experience with the practical problems and difficulties in the administrative phases of government.

No one could forecast what would be the results and conclusions of such investigations. It is significant, however, that the Committee on Ministers' Powers with respect to English practices, where much more extensive delegations of power and broader and more frequent grants of quasi-judicial authority to administrative officers with comparatively little judicial review, have been made than in the United States, after a thorough inquiry, concluded that "we see nothing to justify any lowering of the country's high opinion of its Civil Service or any reflection on its sense of justice, or any ground for a belief that our constitutional machinery is developing in directions which are fundamentally wrong." Fortunately, much preliminary work has been done to form scientific and authoritative analyses of the administrative process as developed by the Interstate Commerce Commission, by the Federal Trade Commission, and by workmen's compensation commissions or industrial accident boards. And some significant studies are now in progress by official and private committees or groups.

Internal reforms in administrative methods are in some instances much needed. Such reforms however, will not be accomplished by the imposition of general restrictions and rigid formulas which all agencies must follow, but rather by a careful investigation of existing practices, with exploration of available effective techniques

and experimentation with new modes of official action. Until the method of investigation and evaluation is more extensively employed, judgments on one of the most intricate and far-reaching of governmental problems will be likely to be based on preconceived notions and influenced to an undue degree by the views of those representing special interests. Assuming that the research and scholarly work of political scientists may not be entirely detached, objective, and scientific, there are issues involved in the development of administrative justice which are so significant for the future welfare of society and are so closely related to the primary purposes and aims of this Association that more definite steps may well be considered by the members of the Association than have heretofore been taken to interpret and evaluate the current ideas and tendencies in this relatively new field of governmental theory and practice.

In the early years, when political science was becoming a separate and independent field among the social sciences, public law, a subject at this time accorded little attention in the curricula of law schools, was for many of the members of the new organization one of the major lines of interest. Gradually the scope of work coming within the ambit of the American Political Science Association has been broadened and enriched by the exploration, analysis, and interpretation of other phases of political ideas and phenomena, with the result that political science may truly be regarded as no longer under the bondage of the lawyers. On the other hand, public law has now become one of the important subjects of instruction in law school curricula, and with this trend has come a decline of the importance of this field of instruction in departments of political science. In fact, the pendulum has swung so far in the opposite direction that there are some who maintain that the only deserving place for public law courses in which the case method of instruction is used is in the law schools. In my opinion, such views are incompatible with the best interests of legal instruction both in the law schools and in departments of political science. Public law always has been and continues to be primarily public in its nature, significance, and implications. It belongs, therefore, as much to the field of the political and social sciences as it does to the field of the law, and political and social scientists as well as lawyers may well coöperate in the consideration and evaluation of the vital problems involved in its development. If modern govern-

ments may be organized to function effectively in a society basically democratic, does it not seem imperative that more time and energy should be devoted, not only to the creation of an administrative mechanism to cope with modern social and political problems, but also to the determination of ways and means to maintain more adequately the public interests and welfare, as well as to preserve within reasonable bounds individual rights and privileges?

VI

Frank J. Goodnow's prediction regarding the consideration of the desirability, efficiency, and appropriate techniques of administrative procedure in dealing with many of the economic and social problems of the present day has come true, to a certain extent at least; but this consideration is involved in and conditioned by an issue of greater significance—the adaptation of such procedure to constitutional theories and principles. Once more by the turn in tide of judicial interpretation one of the foremost political controversies centers around the meaning and application of the federal Constitution. Those who fall back upon the Constitution to sanction the views which in their opinion accord with desirable public policy admit that many federal statutes have been enacted during the past century or more that have involved delegations of legislative and judicial power to administrative officials, and that such delegations, prior to 1935, were all declared valid by the Supreme Court. And it is taken for granted that, with respect to combinations of legislative and executive power, a rigid application of the separation of powers doctrine is neither possible nor desirable. But by a different kind of reasoning this doctrine, with only few exceptions virtually ignored in both constitutional theory and political practice until the last two decades, has been held to be a rigid and inflexible guide to prohibit the mingling of judicial with legislative or executive powers and to enlarge the privileges and prerogatives of the courts regardless of inevitable encroachments on the domain of the other departments. The doctrine of separation of powers, we are told, now requires a meticulous and mechanical classification and separation of functions, and it is insisted that there is nothing to do but to provide for this separation or to amend the Constitution by changing the pertinent constitutional principle. But is it the Constitution that demands such a requirement, or is it what Justice Holmes called the personal and individual

predilections of the interpreters which are first read into the general phrases of the document and withdrawn therefrom to make it appear that it is the voice of the Constitution only that speaks? Thus the process of interpretation again comes to the forefront as a means of construing limits to governmental action not prescribed by the written fundamental law.

Chief Justice Winslow of the state of Wisconsin spoke many years ago of the difficulties involved in adapting an eighteenth-century constitution to a twentieth-century society. The greatest difficulties encountered in this adaptation, however, are not with the written instruments which were drafted in the eighteenth century, but with the interpretations or glosses which have been injected into or superimposed upon the phrases of the written document. The Supreme Court of the United States has begun to brush aside some of these additions to or modifications of the Constitution by interpretation, and has indicated the advisability of changing other phases of the constitutional gloss. One of the most significant of the steps taken in this direction is the gradual disposal of Chief Justice Marshall's dictum in McCulloch v. Maryland, which was enlarged by interpretation into a broad doctrine preventing reciprocal taxation of any kind of the instrumentalities of one governmental unit in the federal system by another unit. No such prohibition was expressly provided by the federal Constitution, and the entire doctrine of "implied prohibitions," as it is called, is an extensive superstructure built upon a theory of federal relationships which was found impracticable, and was repudiated, after a short trial, by the federal systems of Canada and Australia. There is no good or defensible ground for the prohibition as applicable to modern society. The overruling of the doctrine of Swift v. Tyson relating to the recognition by the federal courts of general principles of commercial law and the superstructure erected thereupon was another step to bring constitutional interpretation back to the language of the document itself, as well as to the intent of those who drafted and adopted the instrument.

Justice Black has indicated in some recent dissents that an imposing array of precedents relating to the interpretation of the commerce clause are not based upon the written phrases and requirements of the Constitution, but rather emanate from assumptions, suppositions, and ideas of governmental policy which have been read into the terse phrases of this clause and have tended to

transfer large areas of authority to the Supreme Court which were by definite grant conferred upon Congress.

Fortunately for the development of an effective system of administrative law and procedure not unduly restricted by the so-called theories and traditions of the common law, it is necessary only to prevail upon the judges to interpret the separation of powers theory according to the rational requirements of the Constitution and of its construction for more than a century, and to delete from the due process of law doctrines some of the current additions and interpolations. Recent decisions of the Supreme Court indicate a trend in this direction. Though unwise legislative restrictions on administrative law and procedure, such as are embodied in recent bills, may temporarily interfere with the normal evolution of efficient types of political mechanism to cope with the complexities of modern life, through the method of trial and error they can and will be changed without undue delay. But when these restrictions are declared to be a part of the written fundamental law, barriers are placed in the way of reasonable adaptations of governmental agencies to meet new conditions which produce in effect a form of political paralysis. Such paralysis can be prevented only by appropriate and necessary constitutional amendments, or by the ways and means which have more frequently been adopted to meet similar situations, namely, the process of judicial interpretation.

No doubt steps will be taken to revise by judicial interpretation the phases of the constitutional gloss designed both in the state and federal governments to place unwise and indefensible restrictions upon the administrative process. Administrative law and procedure may then readily be adapted to constitutional theories and principles, and governments may function more adequately and more efficiently in the performance of the public duties and responsibilities required for a twentieth-century society. With greater freedom of action and less need for adherence to formal and cumbersome legal procedure, we may look forward to marked improvements in the organization of administrative agencies, to the selection of a better qualified personnel to perform the work committed to these agencies, and to the enlargement of the field in which they may be designated by the legislative and executive departments to carry out the public social and economic objectives which are now considered indispensable.

HOBBES AND HOBBISM

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Fearful of a committee appointed by the House of Commons to investigate the current tendencies towards atheism and profaneness, Hobbes in 1666 burned some of his private papers. The Great Plague and the Great Fire of London had just occurred. While many Englishmen were prone to blame the fire on those whom they considered the "treacherous Catholics," they tended to regard the plague as obviously an act of God. The House of Commons shared this widespread attitude and, desirous of ridding the country of the causes of the divine displeasure, named several persons whose wickedness might be the occasion of the display of God's wrath against the English people. The House included Hobbes in the list and specifically mentioned his *Leviathan.* Moreover, some bishops of the Church of England, at about the same time, suggested that it might be well to burn Hobbes as a heretic.[1] Nothing came of the parliamentary investigation; indeed, the investigation seems not to have been begun. And no fires were lighted except that in which Hobbes saw fit, as has been said, to burn some of his private papers.

It is interesting to conjecture, however, what the name of Hobbes would mean in the history of ideas if his works had happened all to perish in 1666 and we, then, had to judge him through the literature which his works provoked. The word *provoked* may here be used advisedly. For an amazing number of hostile writings against Hobbes were printed during his life-time and immediately after his death. Richard Blackbourne, in his *Vitae Hobbianae Auctarium* (1681), lists thirty-five authors who attacked Hobbes prior to that date, and then added: "In Hobbii defensionem unicum solummodo reperio scriptum, idque anonymum"![2] Of the thirty-five hostile writers, twenty-nine were concerned with Hobbes's political ideas, especially with the *Leviathan;* and the single favorable tract was, if not written by a foreigner, at least published in Amsterdam in defense of the *De cive.* After Blackbourne's report in 1681, the number of hostile references to Hobbes increased. The editor of *The Moral and Political Works of Thomas Hobbes of Malmesbury, Never Before Collected Together* (1750) has two long foot-notes to a

[1] Aubrey, *Brief Lives* (Oxford, 1898), I, p. 339. [2] P. 112.

preliminary biographical sketch in which, depending largely upon Blackbourne's list, he goes on to add eight more hostile writers and only one further (again a foreign) favorable writer.[3] These lists are not exhaustive. Eight other hostile treatments of Hobbes can be given from the period of Hobbes's own lifetime and the ensuing decade.[4] Added together, the lists give us fifty-one hostile and two favorable treatments.[5]

Were we to formulate Hobbes's political theories from this contemporary literature about him (as, for example, we have to formulate our ideas of the Christian gnostics of the second century largely from the writings of the church fathers who attacked them), we should get a system of political philosophy which may be properly referred to as Hobbism—something quite different in most fundamental points from the theories Hobbes set forth in his writings, yet issuing from those writings as those writings were read by and impressed themselves on the minds of Hobbes's contemporaries. This system of Hobbism would in summary be as follows. (1) God made man such a beast and rascal that he inclines universally to malice and fraud. Man's typical acts, when he is unrestrained, are violent and ruthless, savagely disregarding the persons and property of his fellows. His greatest longing is to preserve himself by gaining power over others. And he deems the exercise of power

[3] Pp. xxv and xxvi.

[4] These eight writings, arranged according to dates of publication, are:

Philip Scot, *A Treatise of the Schism of England. Wherein Particularly Mr. Hales and Mr. Hobbs are Modestly Accosted.* 1650.

Luke Fawne, *A Beacon Set on Fire.* 1652.

Thomas Pierce, *Autokatakrisis, or, Self-Condemnation, Exemplified . . . with Occasional Reflexions on . . . Master Hobbs.* 1658.

Roger Coke, *Justice Vindicated from the False Forms Put upon it, by Thomas White Gent., Mr. Thomas Hobbs, and Hugo Grotius.* 1660.

William Lucy, *Observations, Censures and Confutations of Notorious Errours in Mr. Hobbes his Leviathan, and Other his Books.* 1663.

Sir Matthew Hale, *Reflections by the Lrd. Chiefe Justice Hale on Mr. Hobbes his Dialogue of the Lawe.* 1675.

William Sherlock, *Their Present Majesties Government Proved to be Thoroughly Settled, and That We May Submit to it, Without Asserting the Principles of Mr. Hobbs.* 1691.

Ja. Lowde, *A Discourse Concerning the Nature of Man . . . With an Examination of Some of Mr. Hobbs's Opinions Relating Thereunto.* 1694.

[5] One should not forget, however, that Hobbes had many friends and warm admirers in England during his lifetime. The editor of the 1750 edition of Hobbes's writings mentioned ten persons who held high opinions of Hobbes. And Hobbes's patrons, the Earls of Devonshire, inscribed on the marble slab over his grave the words: "Vir probus et fama eruditionis domi forique bene cognitus."

honorable, no matter for what ends it be exercised. (2) There is no real distinction between moral right and moral wrong. Moral distinctions are artificial suppositions foisted upon the generality of men by some superior power; they are arbitrary conventions which rulers impose upon their subjects and have no validity beyond the frontiers within which those rulers exercise control. The state is thus the original of what men have come to deem virtue; and apart from the state there would be no moral distinctions or principles at all. (3) A *de facto* ruler is always justified in all his ways. Since the distinction between good and bad arises from the dictate of princes, the commands of princes are *ipso facto* the criterion of right and wrong for those whom they are strong enough to command. A ruler, being himself the source of morality, cannot be immoral. (4) Appeal to law as a protection of popular rights is essentially invalid. For not simply are there no popular rights, but the passing whims of rulers are of more force than what is alleged to be law.

These four points might well be taken as constituting the system of political Hobbism. Along with them would go the further position that both religion and personal character are to be despised by the discerning. Religion is a sham and a trick, whereby shrewd rulers buttress their wills by playing cleverly upon the fears of superstitious men. Character, too, is an idle notion. Men's inner motives are indifferent. What a man really seeks, what he hopes or wishes, what he secretly thinks, these are of no consequence provided that his outward acts conform to his ruler's will. No man can sin as long as he obeys his prince. On all matters on which he is not expressly forbidden to commit a deed, he is both legally and morally free to act as he chooses. As men are born savage beasts, so they remain savage beasts to the end, however much their bestiality is concealed beneath that thin veneer of legal conformity which can only ironically be called civilization.

Hobbism, thus defined, can find substantiation in the works of Hobbes, when those works are read hastily or separate sentences out of them are quoted out of context. That Hobbes was in his own day generally deemed a Hobbist is quite intelligible in the light of the psychology of the turbulent days of the Commonwealth and Restoration. That Hobbes continued to be deemed a Hobbist by many historians in subsequent centuries has been due both to the force of tradition and to the wide acceptance of a rival political philosophy which was sponsored with great power by Locke and

was congenial to the currents of political change since the Glorious Revolution of 1688. Hobbes challenged, not merely with deep penetration but with caustic wit, many cherished political beliefs and party professions of his time; and his ideas run diametrically counter to much that is basic in the "natural rights" movement that gave constitutionalism its characteristic form in several of the great nations in the eighteenth and nineteenth centuries. He influenced the utilitarians and other nineteenth-century writers on specific points; but he has generally remained suspect, even to our own day, and is still pictured with many lingering traces of the Hobbism with which he was from the outset confused.

Among the factors which have tended to make Hobbes seem a Hobbist, three are perhaps most prominent. In the first place, Hobbes had a remarkable gift for trenchant utterance and a glee in exploiting this gift to the irritation of his opponents. During the years of his voluntary exile from his own country, he deliberately indulged his wit in antagonizing the clerical and royalist forces that had gathered in Paris about the person of the prince who later became Charles II. But he was not partial to any group in administering telling blows. Simultaneously with his expressions of anti-clericalism, he uttered defiances of the parties who were struggling for power in the Commonwealth at home—Presbyterians, Independents, agitators like the Levellers, republicans like Harrington. Consider, for example, the famous jibe that the papacy is "the ghost of the deceased Roman Empire, sitting crowned upon the grave thereof."[6] Or the ironic condemnation of the Presbyterians as, jointly with the Roman clergy, "authors of this darknesse in religion."[7] Or the attack upon the universities because they did no more than impose upon their students "the frivolous distinctions, barbarous terms, and obscure language of the Schoolmen," in order to "make men mistake the *ignis fatuus* of vain philosophy, for the light of the Gospel."[8] Or the assault upon, not merely the preachers, but also the gentry of England, whose opinions, Hobbes said, were derived "from the venime of heathen politicians, and from the incantation of deceiving spirits."[9] Or the

[6] *Leviathan*, pp. 697–698. (References are given to the pages of that volume of the Molesworth edition of *The English Works* in which the particular writing occurs. This Molesworth edition remains the one most generally accessible for Hobbes's writings as a whole.)

[7] *Idem.*, p. 691. Cf. also *Behemoth*, p. 167, where the clergy of the land are put first in a list of "seducers of various sorts."

[8] *Leviathan*, pp. 540–541. [9] *Idem.*, p. 713.

cutting sarcasm in the brilliant half-truth that "the naturall seed of religion" lies "in these four things, opinion of ghosts, ignorance of second causes, devotion towards what men fear, and taking of things casuall for prognostiques."[10] Could any author more directly and unsparingly assail every one of the respectable groups of his time? Could any author who so assailed these groups hope to escape in his turn the vitriolic misrepresentations to which his own words, wrested from their context, were capable of being put? It is no wonder that contemporary opinion about Hobbes was controlled more by indignation than by analysis and that subsequent opinion should follow along the lines of the hostile tradition that treated Hobbes as a Hobbist. Hobbism may not have been Hobbes's position; but the fury that led to its formulation was excited by the relentless irony of his barbed shafts and would not soon die out.

In the second place, Hobbes was known to his contemporaries, and even more generally to all subsequent generations, primarily by the *Leviathan*. The *Leviathan* is his greatest contribution to *belles lettres:* in suitability of style to content and in vigor of trenchant and dramatic utterance, it ranks among the finest classics of any literature. But intellectually and philosophically it is not as fine as the *De cive*. Eloquent as it is when taken paragraph by paragraph, quotable as it is when taken sentence by sentence, it lacks reasoned integrity and scholarly poise. It was written in the heat of controversy. It does not stay to achieve that balance of statement that is requisite to calm and fair consideration. Begun in a spirit of moderation, it passes in its middle chapters to passionate rhetoric, and closes in a burst of fury against the entrenched foes of Hobbes's program for securing a modicum of human happiness. The *De cive* indicates by its divisions the essential lines of its author's system of thought; the *Leviathan* indicates rather the intensity of his hates. Constructive teaching is in the *Leviathan* submerged beneath the insistent fire of destructive attacks. It is still, even in these days when Hobbes is little more than the historian's subject of discourse, an insolent and provocative book. It chooses to state its thesis in its most controversial context, namely, in emphasis upon its claim that all churches are entirely subordinate to the power of civil authorities. It even indicates by its famous frontispiece opposite the title-page that it

[10] *Idem.*, p. 98. Cf. also the statement that religion consists of "fear of power invisible, feigned by the mind, or imagined from tales publicly allowed" and differs from superstition only in that the latter is "not allowed." *Idem.*, p. 45.

would humble the churches by making them merely an arm of secular jurisdiction. It thus drives many readers into protest before it informs them of its due intent, and this is true today to only a somewhat less extreme degree than in Hobbes's lifetime. There is no change in essential doctrine from the *De cive* to the *Leviathan*. But the *De cive* ought to be more read: it ought especially to be read as introductory to the later work. The *De cive*, if less eloquent in its rhetoric, is very much more methodical and clear in its philosophical import.[11]

In the third place, Hobbes, as is typical of many another among the systematic philosophers, conceived an inclusive schematism which would enable him to place his political principles within the framework of a total theory of the universe. According to this schematism, the only ultimate facts are matter and motion; all else is but some special case of the basic realities of matter and motion. The schematism would, Hobbes thought, have three main parts, theory of body, theory of living body, theory of social body. So he wrote books with the titles *De corpore*, *De homine*, and *De cive*. The three books appeared in reverse order to their place in the allegedly controlling schematism, *De cive* in 1642, *De homine* in 1650, and *De corpore* only in 1655. Of course this matter of chronology is not conclusive; for Hobbes announced his general schematism in the "Preface to the Reader" of the *De cive*, and is known to have conceived it even earlier. Internal evidence, however, makes it highly probable that Hobbes did not deduce his political principles from his materialistic schematism, but derived them from observance of the actual actions of men and states and from his reading of others' (e.g., Thucydides's) similar observations.[12] The grandiose schematism served, Hobbes hoped, to give his political principles the added

[11] I find my estimate of the importance of the *De cive* expressed in Professor A. E. Taylor's recent article on Hobbes in the journal *Philosophy* for October, 1938 (Vol. 13, pp. 406–424). I cannot agree with most of what Professor Taylor says in analysis of Hobbes, as the conclusion of my paper will reveal to those who have read his article.

[12] The argument of Leo Strauss in his *The Political Philosophy of Hobbes*, pp. 8–29, seems to me conclusive on this point. Yet the point remains one, and probably must remain one, on which even the most competent critics will differ. For example, Professor George H. Sabine, in his *A History of Political Theory*, takes the opposite view to that of Strauss and that here maintained. Professor Sabine believes that the evidence Hobbes adduced for his political theory "was in no sense empirical" (p. 458), but was rather "the first whole-hearted attempt to treat political philosophy as part of a mechanistic body of scientific knowledge" (p. 460).

convincingness that would ensue if they fell easily into their place in a comprehensive body of scientific knowledge; for were they not the political analogue to the new science that Galileo and Robert Boyle and others were making popular among the enlightened minds of the century? If such were Hobbes's hopes, such were not his actual reception and fate. His fate has been that his views on mathematics and physics have been regarded as unimportant. And his reception has been that his political principles, taken as corollaries of his materialistic scheme, have drawn from their place in that schematism only increased opprobrium. Hobbes's political ideas gain, when taken as deductive consequences of his physics, only an added brutality which his passionate statement of his principles had already suggested. And thus the tendency to treat Hobbes as a Hobbist, which arose in his own day from the controversial fury of his utterances, has persisted to our own day from the alleged dependence of them upon a schematism that was an afterthought, or at most a reinforcing addendum.

The distinction which has been asserted between Hobbism and Hobbes's genuinely intended meaning can best be exemplified by considering Hobbes's views in connection with each of the four points of Hobbism already summed up above. But before taking up these four points in turn, some preliminary remarks are needed about Hobbes's primary concern and practical objective. The central theme of Hobbes is that the raw material of human nature is such that it can be transformed into a degree of civilized decency through only one practical means, namely, through the provision of a genuinely sovereign authority within society. This theme is dramatically and symbolically portrayed in the superb frontispiece of the first (privately printed) edition of the *De cive*.[13] In the upper part of the frontispiece is given a more or less conventional representation of the Last Judgment, with Christ in the center, the redeemed on his right, and the damned on his left. Probably no one

[13] I have found only one copy of this edition (Paris, 1642) in the libraries I have been able to consult. Unfortunately, the frontispiece was so altered in the 1647 editions of *De cive* that its significance is utterly lost. The 1647 editions were printed by the Elzevir Press in Amsterdam while Hobbes was in Paris and thus lacked the benefit of his supervision. I know of no author in the whole range of political thought whose works contained frontispieces that so beautifully reveal the nature of the theme of the work in which they appear. This is true of the first edition of the *De cive*, the *Leviathan*, and the translation of Thucydides. It was not true, of course, of the *Human Nature* and the *De corpore politico*, which were put out without his knowledge or approval. That the 1647 and later editions of the *De cive* have trivial

will suppose that Hobbes wished to have his readers understand that his use of the traditional Christian iconography was indicative of his literal acceptance of the Christian mythology about the Last Judgment. Rather it doubtless means that whatever final and authoritative judgment can be passed upon human affairs will be in the light of the contrast between the two figures who stand respectively underneath the redeemed and the damned. Beneath the redeemed is the figure of *Imperium:* she is a stately woman, strong and fair; in her right hand are the scales of justice and in her left a drawn sword to enforce her decisions; on her head is a royal crown; behind her opens out an idyllic countryside where men reap in security the crops they had sown, and a noble city rests securely on a distant hill. Beneath the damned is the figure of *Libertas:* she is an old hag, sour in face, dejected in posture, mean in apparel; her weapons are primitive; behind her is visible a sordid vista, where assault and rape occur, and only a crude stockade offers a precarious refuge to the victims of open crimes. Hobbes seems to have wished to indicate that the antithesis of *imperium* and *libertas* is what the separation of redeemed and damned symbolizes. His intent is quite clearly to point out that we must choose irrevocably between *imperium* and her blessings on the one hand and on the other *libertas* and her attendant dangers. And if we translate Hobbes's Latin terms into current English, we cannot properly say that he is contrasting Empire and Liberty; for these words carry implications today that depart from his intent. We should rather say that he is contrasting Sovereignty and Anarchy. He is contrasting the possibilities of human life when firm rule establishes security for human enterprises with the doom that threatens all men alike when confusion and war are unrestrained.

The question that Hobbes raised in this frontispiece is an old one; the theme that he offers in its solution is a radical and uncompromising one. The question was how to guide the raw material of human nature into the ways of civilized life. This question confronts all serious and thoughtful moralists who do not entertain

and meaningless frontispieces is highly unfortunate, because these are the only editions that are generally available and known today. The page of the 1647 and subsequent editions is so much smaller than that of the 1642 edition that the frontispiece could hardly have been reproduced in its rich detail; but I suspect that Hobbes, had he been on hand when the printing was being done, would at least have conserved some of the symbolic meaning he cleverly indicated in the 1642 frontispiece.

the notion that the human race began in a Garden of Eden and is subsequently guided by revelation and inspiration. Neither single men nor social groups originally possess such endowments as nobility, excellence, beauty, virtue. Men and societies come from barbarous backgrounds: they come with animal lusts, violent prejudices, wild passions, impulses which, uncontrolled, make for strife and discord. Whatever men come to exhibit in the way of worthy characters and ordered institutions and fine arts—whatever, in other words, they achieve in the way of civilization—is precarious in status and fragile in existence. This question of how to promote civilized ways in a precarious social world is a fundamental concern of many thinkers in all ages. But the solutions offered have varied considerably. Some thinkers have put their trust in educational schemes; others, in reliance upon natural reason; many, in supplications for divine grace; some, in appeal to law, whether *lex naturae* or Common Law;[14] a credulous few, in the automatic balance of a welter of independent forces into an eventual happy synthesis. Hobbes brushed such solutions aside. Education is prone to corruption; reason is weak; divine grace is a bone of contention and a cause of controversy; law is often flouted when it is good and enforced when it is bad; custom is subject to periodic breakdowns; and the idea that the anarchy of individual lusts will iron themselves out into universal harmony is a silly dream. The only technique of order is discipline, discipline imposed from above, discipline that comes from power that cannot be challenged by either passion or ignorance. Sovereignty is thus the *sine qua non*, not merely of peace, but also of all excellence, both for individual men and for social groups.

[14] Critics have sometimes maintained against Hobbes that he failed to appreciate how generally men, even savage men, normally act within the framework of accepted custom or "ancient law." Certainly Hobbes omits from his discussions any considerable attention to this important point. Yet the criticism seems unjustifiable. For Hobbes's problem was not to weigh the degree of social efficacy which reason, custom, education, and prudent self-interest might respectively have in the history of political developments. His problem was to carry social analysis to its last and final stages, and to inquire what technique of control was possible when reason was frustrated, custom broken down, education corrupt, and self-interest imprudent. That is, he was inquiring concerning what means might be found to reinforce reason, to set up new and better customs, to frame educational policy, to restrain excessive self-interest. He lived in a world which could not be successfully controlled by these important but relatively secondary means, and sought a more primary solution than these secondary means afforded.

In comparing Hobbes's position with Hobbism, one ought always to remember that all details in Hobbes's writings are subservient to a pressing home of this his central theme.[15] Hobbes knew quite well that he fell at times into overstatement, but he evidently valued overstatement as useful to shock his readers out of their complacency. For example he prefaced his first published work on political philosophy with the following very revealing words:[16]

> Wherefore if ye shall meet with some things which have more of sharpness, and less of certainty than they ought to have, since they are not so much spoken for the maintenance of parties as the establishment of peace, and by one whose just grief for the present calamities of his country may very charitably be allowed some liberty; it is his only request to ye, Readers, ye will deign to receive them with an equal mind.

Of course Hobbes's contemporaries did not observe this warning and were shocked into violent opposition instead of into patient attention. But Hobbes's intent is none the less clear.

On the first point of Hobbism as outlined above, Hobbes was far from being a Hobbist. The picture which he gave of "man in the state of nature ' is, to be sure, far from flattering. Every man in the state of nature is enemy to every other man; he exists in a constant state of war, friendless, neither giving nor receiving sympathy, beset by dire fears, driven by a lust for power after power that ceaseth only in death.[17] But what is seldom noticed by Hobbes's readers is that the picture of "man in the state of nature" is not meant by Hobbes as a complete picture of human nature.[18] The

[15] Perhaps one exception might be made to the general statement in the text above. The growing hatred of Hobbes for the Roman Catholic Church in particular and all clerical forces in general led him, especially in the second half of the *Leviathan*, to long diatribes that are not strictly germane to his central theme. But even here there is no inconsistency between the central theme and the diatribes.

[16] *De cive*, "Preface to the Reader," pp. xxiii–xxiv. (Quotations from the *De cive* are given from Hobbes's own translation of the work into English under the title *Philosophical Rudiments Concerning Government and Society*.)

[17] Cf. *Leviathan*, Chap. 13, or *De cive*, Chap. 1. The most famous and most quoted passage in Hobbes is probably that in Chap. 13 of the *Leviathan*, p. 113, which concludes with the magnificent phrase that the life of man in the state of nature is "solitary, poor, nasty, brutish, and short." Unfortunately, critics have usually quoted this eloquent passage before pausing to analyze the purport of the chapter, and have thus perverted the meaning of the passage by taking it out of its legitimate context.

[18] The annihilating attack on Hobbes's "egoism" and selfish view of man was carried through with great thoroughness by the eighteenth-century British moralists, notably Bishop Butler. This entire line of criticism, constructively effective as it may be, was far from just to Hobbes's intent and is probably a major reason for the persistence of the notion that Hobbes gave a wholly egoistic picture of man.

idea of man in a state of nature is, like the idea of a state of nature, not historical but analytical. Hobbes did not regard the state of nature as an early historical period from which men later departed; he rather regarded it as a permanent factor within society, with which therefore all sound social theory must be constantly occupied —that is, as an ever-present menace against which men must be on their guard in both theory and practice. So the idea of man in a state of nature is an emphasis on an aspect of all human nature, an aspect that may be at times competently controlled but can never possibly be eradicated. Man in the state of nature is what man would be in the absence of all the normal associations of social life. It is really a picture of man as he is perhaps never, certainly seldom, found, though as he is in part forever tending to become. The idea is analogous to the scientific description of a body as continuing in a state of rest or of uniform motion in a straight line unless influenced by outside forces.[19] Actually there is no such body, because all bodies are continually influenced by outside forces. Yet the concept of a body as it would be if left to itself is useful in enabling us to make more exact calculations of the various outside forces that influence any particular body we may wish to study. So the concept of man in the state of nature is useful in enabling us to estimate the importance of the social ties that qualify the conduct of any and every man we may wish to study. Hobbes was not so poor a psychologist as to overlook man's genuinely social interest. But the concept of man in a state of nature is important because it makes evident the gravity of the problem of securing a stable, and even moderately decent, society. Men do have lusts that do not easily submit to discipline; they are in continual need of being remade and controlled. The irruption of bestiality into human affairs is not to be glibly explained away as an unfortunate effect of bad social conditions: it is too often the very source of those bad conditions. We actually find men who are neither pure samples of man in the state of nature nor clear embodiments of perfect virtue. We have men of varying degrees of crudity and refinement; and our problem is to understand the causes of the crudity in order that we may then increase the amount of the refinement. A clear idea of man in the state of nature is a prerequisite to any formulation of an effective technique of social

[19] This analogy I owe to the brilliant characterization of Hobbes by Professor F. J. E. Woodbridge in his *Hobbes: Selections* (New York, 1930), pp. xx–xxi.

control; for the difficulties of social life are not functions of man's better aspects but rather functions of his basest lusts. The world is turbulent because men lie and cheat and murder. Thus the idea of man in a state of nature, while not a psychologically adequate analysis of human nature (which it was not Hobbes's purpose to give), is just that analysis of man that is most relevant to the political problem with which Hobbes is grappling.

Hobbes explicitly states that men are not naturally evil.[20] But they are naturally passionate; and in the absence of means of security they are naturally the prey of haunting fears. Men's passions and fears may make them evil if conditions force them to aim primarily at defense against treachery and secret plotting. Men's passions will be qualified, however, and their fears may in large part be dissipated, if conditions surround them with ordered custom and lawful procedures. One cannot persuade water to run up hill, but one may pump it some distance upwards. So one cannot persuade men to be passionless; but one may so organize a state that men will gratify their passions within the definable bounds of civilized ways. In brief, excellence comes, not from romantic trust in human nature, but from realistic knowledge of what the forces are which require control. Hobbes really did for political theory at this point what scientific investigation of moving bodies was doing in the seventeenth century for mechanics. He did not discover any such existing person as a man in the state of nature, just as no one discovered a body that moved without influence from without. But he revealed what the nature is of that which we have to control, as others revealed the nature of that which outside forces affect. Hobbes therefore differs entirely from Hobbism, since he is not giving a picture of human nature in its entirety, but is fashioning a concept that is explicitly relative to the central theme of securing a society in which incentives to violence are few and encouragements to virtue may abound.

The second point of Hobbism as outlined concerns the basis of morality. According to Hobbism, morality is the creature of the arbitrary fiat of princes and lacks all validity apart from sovereign control. It is easy to find the phrases in Hobbes, repeated from book to book and recurrently within each book, which led men to classify Hobbes as a Hobbist. For example, there are such passages as the following:

[20] Cf. for example the passage in *De cive*, p. xvi: "But this, that men are evil by nature, follows not from this principle."

Nature hath given all to all. From whence we understand likewise, that in the state of nature profit is the measure of right.[21]

Irresistible might, in the state of nature, is right.[22]

Before the institution of sovereign power, *meum* and *tuum*, implied no propriety, but a community, where every man had right to every thing.[23]

Seeing then that a just action . . . is that which is not against the law; it is manifest that before there was a law, there could be no injustice; and therefore laws are in their nature antecedent to justice and injustice.[24]

Where there is no common-wealth, there is nothing unjust. So that the nature of justice, consisteth in keeping of valid covenants: but the validity of covenants begins not but with the constitution of a civill power sufficient to compell men to keep them.[25]

These and other such phrases in Hobbes's writings are challenging. But they do not properly mean Hobbism. Two things need to be said in order to establish a correct interpretation of Hobbes's meaning. First, Hobbes is speaking in legal, not in moral, terms. Justice and right are being defined in terms of enforcement of a conformity to law. It is then an analytical proposition and admits of no dispute that where there is no law there can be no question of justice and right at all. Justice then begins only where law exists. And in the absence of law, might makes right, not in the sense that might proves wisdom or virtue to be resident in him who exercises the might, but in the sense that might, when irresistible, is the beginning of a régime in which the distinction between ruler and subjects is emerging, in which, hence, the existence of law is beginning to manifest itself and conformity to law is incipiently involved.

Secondly, and almost by corollary from the preceding remark, it is also clear that Hobbes is insisting that any significant morality is social in character and presupposes the occurrence of regularized procedures.[26] Morality is not significantly present when men are

[21] *De cive*, p. 11. [22] *De corpore politico*, p. 86. [23] *Ibid.*, p. 207.
[24] *A dialogue of the common laws*, p. 29. [25] *Leviathan*, p. 131.

[26] Critics often accuse Hobbes of failing to distinguish between government and society, or between state and society. The same type of reply may well be made in behalf of Hobbes at this point that we made in connection with the point dealt with in footnote 14. The distinction between state and society is not relevant to Hobbes's problem. Hobbes was not writing a textbook that had to give proportionate amounts of space to all the twentieth-century problems of a systematic treatment of political science. For his problem of finding the means to avoid anarchy and to create sovereign control and hence social order, a society without a government was indistinguishable from a chaos of war. The introduction of the distinction between state and society would thus have obscured Hobbes's major point, and the critics who bring this charge against Hobbes might hesitate a bit if they took full account of the predominantly social character of morality in Hobbes's thinking.

considered in their separateness as atomic individuals; it is significantly present when men are considered in their interrelations in an integral situation in which questions of social adjustment arise. If one wants to press the point and insist that some minor problems of morality might arise in connection with the conduct of a single man in isolation from his fellows, Hobbes would grant the point. Indeed, he did expressly grant the point in a revealing fashion. Some critic evidently pressed this very point against Hobbes when the first privately printed edition of the *De cive* appeared in Paris in 1642. For in the Elzevir editions of 1647 footnotes appeared in answer to this criticism. Hobbes did not consider the point important enough to make any alterations in the text proper, but he did quite explicitly answer the criticism. Even apart from social institutions, a man may well find some conduct wiser and other conduct more foolish, so that "the laws of nature," i.e., the principles of reason or morality, apply to him considered alone. In his own words:[27]

> There are certain natural laws, whose exercise ceaseth not even in time of war itself. For I can not understand what drunkenness or cruelty, that is, revenge which respects not the future good, can advance towards peace, or the preservation of any man. Briefly, in the state of nature, what is just and unjust, is not to be esteemed by the actions but by the counsel and conscience of the actor.

There is here no reluctance to admit a minor kind of morality apart from social institutions; but Hobbes evidently considered such morality as of slight moment because hardly pertinent to any existing situation in which men actually live. All significant moral problems arise in the complex adjustments of men in civil society. So dominantly social is morality that one can practically equate the social and the moral; and Hobbes felt no compunction at such inconsequential over-statements as he, deeply stirred by his important theme, had made in the main text of his book.

The two comments just made in exposition of Hobbes's position are intimately involved in each other. It is precisely because justice and right have an important meaning as legal terms that morality can be viewed as a genuinely social affair. If men lived without a known law and a civil power to enforce it, they would have no guide except their individual judgments; consequently, opinions would clash, strife would ensue, and chaos would result. To recognize this

[27] Pp. 45–46.

is not to endorse ruthless, anti-social, and passionate acts: it is rather to indicate the indispensable rôle of law in the pursuit of the good life. If we supposed that individual men in their individuality are so many separate seats of moral prerogatives and moral obligations, then the nature of morality would be fixed antecedently to the enactment of laws, and the duty of law-makers would be merely to frame laws consistent with this fixed and antecedent standard. Such a philosophy would be an utterly superficial view of the intimate involvement of morals and law in each other. Not simply is it true that "where there is no judge, there is no end of controversy; and therefore the right of hostility remaineth,"[28] so that without law chaos would ensue and the possibility of genuinely moral achievement be annulled by universal strife. But also and more fundamentally it is true that the establishment of law creates a new situation in which sound reason or sound moral principle (two terms for the same idea) requires decisions such as would be ridiculous if there were no law or if there were a different law. Law does not by fiat create moral distinctions, and Hobbes never said that it did. But law does create significant moral situations, and Hobbes saw this more clearly than any prior political philosopher of modern times.

That Hobbes never regarded law as by fiat creating moral distinctions is so often overlooked that the point requires amplification. Hobbes repeatedly said that "the laws of nature," i.e., the principles of reason, "are the sum of moral philosophy."[29] But for good and sufficient reason the law of nature demands the establishment of civil society (which of course includes law) and the operation of men within the structure thus established. As Hobbes said:[30]

> Theft, murder, adultery, and all injuries, are forbid by the law of nature; but what is to be called *theft*, what *murder*, what *adultery*, what *injury* in a citizen, this is not to be determined by the natural, but by civil law.

For the principles of reason are all of them abstract, and the acts of men are all of them concrete; and the passage from abstract principle to concrete act is possible only when considered in the social situation in which the concrete acts occur. Hobbes was far from the position of the Hobbist, who assumed that moral distinctions are artificial suppositions foisted upon men by arbitrary power. He was dramatically stressing the point that morality (aside from a few trivial exceptions) arises in social life as manifest in the

[28] *De corpore politico*, p. 106. [29] *De cive*, p. 49. [30] *Ibid.*, p. 85.

existence of social instrumentalities or institutions to regularize human relations, of laws to define and modify these relations, and of authorities to enforce their observance. So far from being a denier of genuine moral distinctions, he was alert to specify exactly what the conditions of morality are, in what context moral problems occur, and by what means some kind of practical solution of moral difficulties may be reached.

This fact anticipates and involves the third point on which Hobbes again must be distinguished from what has been called Hobbism. According to Hobbism, the lawmaker, since he creates moral distinctions, is *ipso facto* always morally justified in all of his acts, and a bad lawmaker is thus a contradiction in terms. Again, as in the case of the former point, it is easy to find the phrases in Hobbes's works which led hasty readers or prejudiced critics to interpret him as asserting this kind of Hobbism. Consider, for example, the following:

> Legitimate kings therefore make the things they command just, by commanding them, and those which they forbid unjust, by forbidding them.[31]
>
> It belongs to the same chief power to make some common rules for all men, and to declare them publicly, by which every man may know what may be called his, what another's, what just, what unjust, what honest, what dishonest, what good, what evil.[32]
>
> There are no authentical doctrines concerning right and wrong, good and evil, besides the constituted laws in each realm and government.[33]
>
> Whatsoever he [i.e. the sovereign] doth, it can be no injury to any of his subjects; nor ought he to be by any of them accused of injustice.[34]

These, again, are strong words; for Hobbes wished to drive home his point with vigor and to leave no loopholes for those who deem their private opinions superior to law. In one phrase, namely, in making the sovereign competent to determine good and evil, Hobbes might properly be said to have gone beyond his intent. For good and evil are ethical terms, even in Hobbes's usage; and his inclusion of them in the second and third sentences just quoted indicates how easy it was for Hobbes to slip into overstatement. With this exception granted, however, the passages quoted are thoroughly sound in the sense in which Hobbes used the terms. Hobbes was clearly employing the words in their strictly legal sense. His meaning is that the source of law can hardly be contrary to law (except in certain technical details, explanation of which he did not take time or burden himself to give). Civil society carries

[31] *De cive*, p. 151. [32] *Ibid.*, p. 77. [33] *Ibid.*, p. xiii. [34] *Leviathan*, p. 163.

with it the obligation that it be respected as such. Even bad law is law, and even good citizens cannot properly flout bad law as if it were not really law at all. Since law establishes, in part at least, the situations which define our moral problems, it cannot, in any competent and incisive moral conduct, be treated as either inconsequential or irrelevant. He who ignores the legal purport of his acts *ipso facto* destroys the moral legitimacy of those acts.

Hobbes proceeded in all his writings to repudiate the Hobbist contention that "the king can do no wrong." He had much to say "concerning the duties of them who bear rule," to quote one of his chapter titles.[35] Though a sovereign cannot, by definition, act unjustly, he "may diverse ways transgress against the other laws of nature, as by cruelty, iniquity, contumely, and other like vices."[36] A sovereign, as much as any other man, is subject to the law of nature or the dictates of reason; indeed he has greater responsibilities to these laws than other men because he is by function the person who "hath taken into his hands any portion of mankind to improve."[37] "The duty of a sovereign," said Hobbes, "consisteth in the good government of the people."[38] Good government involves provisions to increase the number of the people, to preserve peace at home, to provide defense against attack from without, and generally to safeguard "the commodity of living." And by commodity of living Hobbes meant such regulations as will give encouragement to trade, abundant opportunity for labor, ample supplies of food and other necessities, and such liberty of movement and of private affairs as is compatible with maintenance of public order.[39] Not simply may a sovereign violate his responsibilities to his people through indulgence in vice or through neglect, but even a conscientious sovereign may commit such vital mistakes of judgment that his rule involves serious moral disasters. All this Hobbes reiterated so frequently that at no point is he more obviously to be distinguished from Hobbism. One may agree or disagree with Hobbes on such points as whether increase of population is a good; but one can hardly identify him with Hobbism without ignoring long chapters of his political writings.

On the fourth point of Hobbism as outlined above, Hobbes may be said to have come fairly close to being a Hobbist. Yet even here

[35] *De cive*, Chap. 13. [36] *Ibid.*, p. 101.
[37] *De corpore politico*, p. 215. [38] *Ibid.*, p. 213.
[39] Cf. *De corpore politico*, pp. 213–219; *De cive*, pp. 167–173.

a distinction must be carefully made. Hobbes did deny popular rights to the generality of men when they live in civil society. He granted to citizens only such rights as are conferred by law or as are not in any way dealt with by law. No rights inhere in citizens by virtue of their civil status which it would then be unjust to change or annul. Sovereign power must be, not only great, but also absolute. No check can be imposed on sovereign power; for then that person or group that imposes the check would be the sovereign, and the official on whom the check was imposed would be but a subordinate and dependent instrument. "The sovereign power . . . implieth an universal impunity."[40]

Now it is only fair to grant to Hobbes all the validity that his words may have; and there are two things, in connection with this point, which ought to be said in his behalf and support. The first of these is that social problems often admit of no settlement by conference, by compromise, by mutual reconciliation of conflicting claims. In such cases, we have to choose between open strife and imposed settlement. Wise rulers, even prudent citizens, will seek to prevent the occasions of such embittered opposition. But rulers are not always wise nor citizens prudent; and even where wisdom and prudence are found in some men, intransigent discord may be found among others of their fellows. Often, perhaps usually, imposed settlement is in these cases preferable to continuance of strife. Well might Hobbes say: "The condition of man in this life shall never be without inconvenience."[41] One of the conditions of civil life is the habit of conforming to governmental decisions as binding, whether they are or seem to be wisely made or not. To deny that civil authority is entitled to determine policy even when it cannot give adequate demonstration of the soundness of that policy is to "make it impossible for any nation in the world to preserve themselves from civil war."[42]

The second thing to be said in Hobbes's support on the present point is that sovereign will inevitably lies behind law. Appeal from sovereign will to some law is virtually appeal from a present sovereign to a past sovereign; it is therefore virtually appeal to a fixed sovereignty and implies that past decisions of a former sovereign are preferable to decisions of a present sovereign who may take cognizance of changed conditions. Law is important, and no one

[40] *Ibid.*, p. 205. Cf. *De cive*, pp. 78 ff.
[41] *Leviathan*, p. 195.
[42] *Liberty, Necessity, and Chance*, p. 289.

saw this more clearly than Hobbes. But also no force in society is more human in its origin than law, more experimental in its course, more tentative in its objectives, more dependent in its meaning upon the authorities who use it. Veneration for law, whether common law, written or unwritten constitutions, or statutes of any kind, is a virtue which, pressed to an extreme, easily becomes a vice.[43] Hobbes is at this point in sharp contrast with Locke, and is, it may well be maintained, the wiser political philosopher. The most significant thing about Locke's *Treatise of Civil Government* is really not what it says but what it avoids saying. Locke's most notable trait is that he could compose an entire treatise on government without so much as mentioning the word or introducing the idea of sovereignty. He hoped that laws might govern instead of men; and "liberals" have generally followed his lead. Locke evidently thought that an original contract could so determine for all time the best conditions for all future society that further exercise of sovereign power could be eliminated from government in both theory and practice. He dared to hope that government might thus become merely the continued application of principles firmly established for every possible contingency. Hobbes had too much realism, too penetrating an insight, to entertain any such position. Even if he erred in overstatement, even if he made too little distinction between a sovereign's passing caprice and his studied decision, he is at least sound in refusing to take law as a final court of appeal.[44] The complexity of social needs demands some authority

[43] Confusion over this contention of Hobbes is doubtless due today to the fact that people often identify a sovereign with a monarch, even with an absolute monarch. That Hobbes favored absolute monarchy leads them to identify his theory of sovereignty with his defense of monarchy. Hobbes, of course, recognized that the sovereign may be one man, several men, or all men. What he had to say about sovereignty is quite independent of his preference for monarchy.

[44] Recent political issues in our own country involve this principle so clearly that it is difficult to avoid comment, even in an historical essay. (1) The trend of judicial decisions prior to 1938 created a realm within which no governmental authority, state or federal, was competent to act. Social life was thus threatened with chaos. And the issue had to be solved, either by reconstitution of judicial authority or voluntary reform within the judiciary. Had the latter alternative not been forthcoming, the former alternative would have become a major issue of the ensuing decade. (2) The bill of rights remains evidence that sovereignty in this country lies, not with officials of government, but with the people. A sovereignty that is hemmed in with restrictions is not a sovereignty. Dialectical difficulties would make any such contention absurd. And dialectics is simply the rigid necessities which political realism must face. To incorporate certain definitions of rights in a bill of rights would violate Hobbes's theory of sovereignty only provided that the

other than law and custom to impose settlement and enforce it with power. Legalism ties a society to precedent, to the level of past achievement. Hobbes's appeal to sovereignty, with all the faults of its tendency to harsh overstatement, is in theory a release from outworn precedent. It is in theory a turning to the ultimate source of law in the interest of securing better and more pertinent law.

There yet remains something ruthless in Hobbes's words that sovereign power implies universal impunity, something ruthless enough to make it natural for hasty readers to misinterpret his words as a mere expression of Hobbism. Hobbes put the sovereign above not merely law but also criticism. Counsellors a sovereign may choose; but no one may offer unsolicited advice. Hobbes wrote that the subjects of a sovereign are not called upon to renounce their "natural reason,"[45] or to give "a submission of the intellectual faculty to the opinion of any other man."[46] But he insisted upon such full obedience of every subject to his sovereign in all respects that for practical purposes he refuses to admit the right of independence of thought.[47] We may well enjoy Hobbes's ironic comment that "in matter of government, when nothing else is turned up, clubs are trumps."[48] We may even grant the truth behind the irony. But we can hardly brook the pretense of Hobbes that a sovereign is responsible to God alone, and hence beyond the legitimate right of human criticism. Hobbes seems too ready to let the sovereign use clubs as trumps on any and every occasion. The appeal to force may need to be implicit in any civil organization; but surely the exercise of force ought to be only a last resort when reason fails.

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written instrument to which the bill of rights was attached contained no technique whereby sovereign power might add or subtract, change or maintain, develop or refuse to develop, the provisions of this bill of rights. Appeal to the bill of rights as beyond sovereign power is dialectically contradictory and politically fantastic; appeal to the bill of rights as the continued will of the sovereign is legitimate, but inevitably an experimental hazard of faith.

[45] *Leviathan*, p. 359. [46] *Ibid.*, p. 360.

[47] Hobbes could, in discussing the problem of the relation of individual conscience and civil rule, go so far as to say: "There can therefore be no contradiction between the laws of God, and the laws of a Christian commonwealth" (*ibid.*, p. 601). But even then he had to grant that there may be a contradiction between what a person took to be the laws of God and the laws of a commonwealth that was not Christian. And in such a case he went so far as to say that no man is even then entitled to resist his prince, but has no remedy except to "go to Christ by martyrdom" (*De cive*, p. 316). [48] *Dialogue of the Common Laws*, p. 122.

And exactly here is to be found that major fault that mars Hobbes's entire political philosophy. Hobbes's appeal to force was insistent because his distrust of human reason was excessive. Hobbes analyzed "the law of nature" with great skill and effect; but he did not believe that men are intelligent enough to follow the paths of reasonableness.[49] Human reason may be fallible, as Hobbes pointed out; but so is any constituted authority or any *de facto* sovereignty. Because reason does not control men sufficiently, Hobbes denied it any proper play in human affairs. Hobbes had no sense for the social value of what we may call "His Majesty's Opposition." He had no sense for either the privilege or the duty of a sovereign to provide for criticism, to permit the free exchange and discussion of ideas to assist in clarifying policy and defining purposes. Since such criticism must at times be suspended, Hobbes would deny it altogether. Hobbes, himself given to forceful reasoning, yet regarded reasoning as weak and ineffective. He treated reasoning as sedition against authority, criticism as treason, discussion of policy as a mark of the dissolution of commonwealth. Hence he supported the strange thesis that strong government is one in which reasoning and criticism and discussion are not visible. When he wrote that "toleration of a professed hatred of tyranny, is a toleration of hatred to commonwealth in general,"[50] he so defined tyranny as to safeguard his statement. But he none the less gives even a sympathetic reader the impression that he would prefer an arbitrary fiat from any sovereign at all to a reasoned debate on matters of public policy. Only on such a supposition can one ex-

[49] On this point I find myself unable to accept the analysis which Professor Sabine gives of Hobbes's philosophy. Professor Sabine states with great precision that "the laws of nature really meant for Hobbes a set of rules according to which an ideally reasonable being would pursue his own advantage, if he were perfectly conscious of all the circumstances in which he was acting and was quite unswayed by momentary impulse and prejudice." But then he immediately adds that Hobbes "assumes that in the large men really do act in this way." Cf. *A History of Political Theory*, p. 461. The striking thing about Hobbes, it seems to me, is rather that, after elaborating what the laws of nature require, he assumes that men would *not* ordinarily act according to those laws and have to be coerced contrary to their inclinations. The motive power in men, Hobbes supposed, was not the laws of nature or of reason, but "a general inclination of all mankind, a perpetual and restless desire of power after power, that ceaseth only in death" (*Leviathan*, pp. 85–86). Professor Sabine seems to withdraw from the position I criticize when, on pp. 464–467 of his book, he speaks of reason and desire as two opposed principles of human nature, and adds (p. 468) that, according to Hobbes, reason "is too weak to offset the avarice of men in the mass."

[50] *Leviathan*, p. 706.

plain how he came to say that "the commands of them that have the right to command, are not by their subjects to be censured, nor disputed,"[51] or that "the law is all the right reason we have, and . . . the infallible rule of moral goodness."[52] Hobbes, it might justifiably be said, took the same pessimistic view of human reason that was prevalent among the early Protestant reformers. But whereas the Protestant reformers looked to God's grace to re-endow human reason with more power, Hobbes looked to sovereign power to make human reason unnecessary.

An estimate of Hobbes's significance for political theory is possible by comparing his position with that of Plato. Plato held that "the best thing is, not that the laws prevail, but that a man prevail who has wisdom and royal quality."[53] Here is the mean between Locke's appeal to law in fear of tyranny and Hobbes's appeal to tyranny in fear of anarchy. The historian may excuse Hobbes's fear of anarchy when he recalls the confusion of affairs in the seventeenth century and Hobbes's consequent desire to get something settled with finality. But the critic must weigh the merits of what the historian explains. And the critic may well see in Hobbes's distrust of reason a threat that Hobbes's political theory may easily slip into that very Hobbism from which Hobbes is carefully distinguished. For if reason be effete and insignificant, then the "natural man" tends to become the entire man, moral distinctions tend to become arbitrary fiats, and any sovereign may be justified in all his ways. Had the opponents of Hobbes focused their attack upon Hobbes's distrust of reason, they would have been able to make out a trenchant case. But of course they, too, distrusted reason, preferring to appeal to some principle of legitimacy or some ecclesiastical authoritarianism or some hereditary institution. Hobbes was so eager to solve the problem of political life that he chose one possible means of settlement of issues, one possibly correct means for the settlement of some issues. But he erred in generalizing about this means which competent reason might ratify relatively to some specific situations, and so regarded it as superseding for all occasions that critical reason which alone could justify it to a degree and for certain selected situations. We may need at times to enforce old law, to insist on some *de facto* settlement of moot issues, to precipitate revolution at the risk of disorder. But we

[51] *Ibid.*, p. 194. [52] *Liberty, Necessity, and Chance*, p. 194.
[53] *The Statesman*, 294 a.

cannot make ourselves victims of established law or submissive subjects of absolute power of facile inciters to violence. The one thing that Hobbes needed to complete his theory and to make it a defensible interpretation of civil and social life was an understanding of the rôle that reason may play in human affairs. With that addition, his political philosophy would become a definitive theory; but without that it still remains a monumental contribution that deserves to be differentiated from Hobbism, even while it is recognized as that from which hasty readers would be repelled as from Hobbism.

Personal Attention in Politics. Why do some American citizens fail to vote in any election? Why do others limit their voting to contests in which a president is chosen? And of those who vote, why do a controlling number sometimes support candidate B instead of A? Candidate A may be of unquestioned honesty, superior brains, and broader and more significant experience. Any election provides examples of this sort of thing, and any reader can cite other illustrations from his own observation of recent or not so recent elections.

A clue to the answer as to why the American votes the way he does can be found by examining the particularly important factor of *personal attention* in our politics. The American's desire for personal attention is one of the fundamental drives of his human nature. Voters who shudder at the word "bribery" may none the less insist on personal attention from the candidate for whom they vote. People who would never think of selling their ballot may be flattered into giving it away. The American citizen, save on the rare occasion of "hard times," or of some other paramount issue, such as "He kept us out of war," votes the way he does, not from a sense of state, but rather from a sense of ego.[1]

[1] The voter expects the man whom he supports at the polls to pay personal attention to him—to do him a personal favor. He feels that he has a first mortgage on the candidate as long as he is in power. It approaches the commercial idea of barter, or the principle of reciprocal transactions—value for value. The voter's sense of state, his interest in the common good, has atrophied because of the very nature of life in a new country. He settled a continent alone; he fought Indians and overcame other obstacles with his bare fists. He learned to rely upon himself. Land was free for the taking, and he took what he wanted, or what he could get. The emphasis then, and until very recently, was on individual effort and individual gain. And those individuals prospered most (in the eyes of their neighbors) who took the cash and let the credit go—who took the land and did not bother about the glory.

If this statement is descriptive of the American's economic activity, and if his economic activity dominated American life, it is natural that his politics should be fashioned out of the same stuff. But conditions change; no longer is land free, or business unregulated, and to a lesser extent, no longer does the individual think of "good government" as an inconsequential, an abstraction, something that does not matter. Now since the advent of the depression, Franklin Roosevelt's smile, his radio voice, and the New Deal legislation, politics and the citizen's attitude toward it and his government have changed. The voter may be thinking less of neighborhood and more of nation. In any event, he is interested in what the national government does, because he is coming to see that decisions made in Washington affect his life in Soldiers' Grove. Of if he does not see this inevitable fact now, he will. This will redefine his interest in politics all along the line. He will, I believe, be impelled to think more of issues, national well being, the state. Since the state is becoming interested in the lone citizen, the lone citizen is becoming interested in the state.

However, the implications of governmental policies are not clear to all of even the best minds. There is a lag, when the man with a smile, or handclasp, a warm

Elsewhere, I have spoken of the personal attention and personal service aspect of politics in a metropolitan area.[2] It is my opinion, however, that this attention and service principle is basic and universal; it varies as the needs and intelligence of voters vary; it is not restricted to any one class, section, political party, or to great cities. (It should be understood, though, that some politicians use the personal attention technique in their attempt to carry on a comprehensive social and political program, and others use it without any great objective in view.) The point here is that all men who get elected and reëlected to public office in our democracy, whether their objectives are public or private, devote a substantial amount of their time and energy to paying personal attention to their constituents. Edmund Burke tried to tell the voters of Bristol in 1780 that he canvassed them through their affairs and not their persons. But this was not good enough, and they rejected Burke. In order to present a more comprehensive view of this matter—of personal attention and personal service—I shall now describe in some detail the activities of certain members of the Assembly in a particular rural state. Although the state that I have in mind is more politically mature, and invariably better governed, than the majority of states, I shall refer to it as *Everystate*.

I

The legislature is organized early in January. At this time, members of the majority (and often minority members too) are able to reward one or more of their most valued helpers or friends by assisting them in securing positions as legislative employees.[3]

Groups of school children and their teachers from different sections of the state often visit the capitol. Their assemblyman is apt to be on hand to greet them and to provide guides for a tour of the building. When the group appears in the gallery of the Senate or Assembly, their representative in the legislature may celebrate the fact by announcing their presence to the body, which may applaud. Then, if the member is particularly interested, he may have their visit recorded in the daily journal,

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greeting, or a personal favor, will win. Notwithstanding what may be the voter's attitude in the future, today he is apt to be interested in the candidate who pays him personal attention or does him a personal favor. What the voter does is not necessarily determined by logic; for life is not logical.

[2] See my sketches of ward politicians in *Boss Rule; Portraits in City Politics*. The statement of one of the leaders is descriptive of many. "I work for you 364 days a year; all I ask you to do is to work one day for me." This is reducing the political process to very simple terms.

[3] Everystate has one of the best and oldest state merit systems to be found in the United States, However, even here, a friend is a friend, and if the friend is an assemblyman (or something bigger), he can help a deserving job-seeker connect with the public pay-roll.

and send a copy to each student and teacher with his compliments.[4]

Before the students leave the building, their legislator may present each with a bit of candy or an ice cream bar. When one assemblyman found that his special group was planning a picnic at a nearby park, he ordered several cases of soda pop delivered at the spot.

At innumerable times during the session, the legislator is able to help his constituents by seeing state departments, commissions, and administrative officials in behalf of some voter. Usually the assemblyman serves by cutting red tape, and thereby hastening the action desired by the voter back home. The legislator is able to do this because he helps enact the budget appropriation for the department, and besides he may know the administrative official personally.

A few characteristic examples will further explain the point. A truck operator came to the capitol to see his assemblyman about a problem over license fees. The ——— division was insisting upon administering a part of a law that the trucker had failed to obey. The assemblyman went to the division, explained the situation, and in less than an hour the trucker was on his way home happy.

[4] The Journal of the Assembly for April 27, 1939, contains the following two items among others:

The pupils of the following schools and their teachers were guests of the Assembly:

Woodlawn School, Wannette
DeForest Graded School, Clinton
Monroe School, Shaunee
Valders Public School, Bolder
Graphic Arts Club, Chickasha
Packwaukee Study Club, Cushing county
Open View School, El Reno
Sunny Hill School, Noble
Spring Valley School, Yale
Clyde School, Manchester

RECEPTION OF RESOLUTIONS FOR REVISION

Mr. S. asked unanimous consent that Res. No. 42, A., be privileged and read at this time. Granted.

Res. No. 42, A.,

Granting the use of the Assembly chamber to the Everystate High School Forensic Association for the annual high school speech contest.

WHEREAS, The Everystate High School Forensic Association has requested the use of the Assembly chamber and parlor for the evening of May 9, 1939, for the annual high school speech contest in which the district winners of the state will participate; now, therefore, be it

Resolved by the Assembly, That the use of the Assembly chamber and parlor is hereby granted to the Everystate High School Forensic Association for Monday evening, May 8, 1939, and Tuesday afternoon and evening, May 9, 1939, for the purpose of holding the annual high school speech contest for the district winners of the state.

By Mr. S., adopted by unanimous rising vote.

The public service commission holds many hearings each year concerning utility rates, bus rates, trucking operations, and other matters. Testimony is taken down in shorthand, and some months may pass before the commission hands down an order. The intelligent attention of a legislator here, in behalf of interested constituents, often speeds up action on a pending case. I mean that an order may be issued sooner than would otherwise have been the case had no interested legislator spoken. It is merely an illustration of that very old idea of having a friend at court.

The conservation commission carries on an extensive fish-planting program. Many legislators are able to help their local Isaac Waltons secure supplies of fingerlings for the streams in their districts. A word from an assemblyman may mean better service, increased quantities, or better varieties of fish.

All through the session the members receive hundreds, even thousands, of requests from the people back home who are not able or willing to come to the state capital. They merely write letters. Legislative pages spend hours on many days in digging up information, collecting data, delivering messages for legislators. A corps of stenographers is usually busy typing letters for them, and sometimes a particularly energetic member may have four or five stenographers working for him at a time. Prompt attention to letter inquiries naturally enhances the good will for an assemblyman among his people.

Many members of the legislature introduce bills and resolutions at the request of interested constituents. The state prepares the drafts and prints the bills. The author of a bill frequently wishes to secure extra copies of his foster child for distribution in his district. Using the privileged method, he secures adoption of a resolution providing for so many copies of reprints. He then sends copies back home.[5]

Joint resolutions are introduced in the legislature for a variety of reasons. A member may want to celebrate the memory of some prominent citizen who has died.[6] Or a legislator may want to congratulate some in-

[5] JOINT RESOLUTION

Relating to additional copies of Bill No. _____

Resolved by the Assembly, the Senate concurring, That the chief clerk of the Assembly be and he is hereby directed to procure the printing of five hundred additional copies of Bill No. _____ relating to regulation of milk dealers.

[6] I am quoting merely the first four and last four lines in a statement forty-four lines in length. I have omitted proper names.

JOINT RESOLUTION

Relating to the life and public service of _____ _____

Mr. _____ _____, village president for nine years, former assemblyman, and outstanding community leader of _____, Everystate, died January 8, 1939, of an infection resulting from an unfortunate fall. . . .

Resolved by the Assembly, the Senate concurring, That this resolution be spread upon the journal of the Assembly and that properly attested copies of this resolution be sent to the members of the family of the deceased.

dividual or group in his district upon some recent and noteworthy accomplishment. Resolutions of this sort are widely publicized at home; the action of the legislature is appreciated by many.[7] Another member is interested in the growing influence of the old age pensioners. So he introduces a resolution memorializing Congress to do something for the aged.[8]

Another valuable aid to certain members is the privilege of sponsoring certain important administration bills. Members who seek higher offices, or who face stiff battles in the next election campaign back home, may be given the opportunity to introduce a key bill. Or a bill may have several authors so that a number of members may bask in the majority-giving sunlight of publicity. Some people think that assemblyman B will be a candidate for attorney-general next election. This session he is the author of the widely discussed B——— labor bill.

A standard method in building good will among the folks in one's district is to send them state publications in which they are interested.

[7] I quote the first and last part of a joint resolution:

JT. RES. No. ———

April 11, 1939—Introduced by Senator ———. Adopted.

JOINT RESOLUTION

Commending the debating teams and coaches of the High Schools of ———, ———, and ——— for outstanding performances in the State Debate Contest of the Everystate High School Forensic Association.

Whereas, The debating teams of ——— High School and ——— High School were declared tied for first place in the annual debating contest of the Everystate High School Forensic Association in the State Capitol, March 1, 1939, a circumstance never before recorded in these state-wide tests of forensic skill; and . . .

Resolved, That copies of this resolution duly attested be transmitted to the principals of the ——— High School, the ——— High School, and the ——— High School, and to the coach and the individual members of each such debating team.

[8] I quote only the first and last parts of a joint resolution:

JT. RES. No. ———

January 24, 1939—Introduced by Senator ———. Referred to Committee on Legislative Procedure.

JOINT RESOLUTION

Memoralizing the Congress of the United States to reduce the age limit to sixty years for old-age assistance.

Whereas, There are many needy and disabled persons in Everystate between the ages of sixty and sixty-five years whose wants are equally as great as of able-bodied persons over the age of sixty-five years, and who must be provided for and supported by the state or its various municipalities; and . . .

Resolved, by the Senate, the Assembly concurring, That this legislature memorializes the Congress of the United States to amend Title I, Social Security Act of the United States, so as to reduce the age limit from sixty-five years to sixty years and to enable states to receive aid from the federal government on the same basis as such states now receive aid for assistance to persons over sixty-five years of age under such Social Security Act; Be it further

Resolved, That properly attested copies of this resolution be sent to the President of the United States, to both houses of Congress, and to each Everystate member thereof.

Legislators have ready access to large numbers of a variety of reports, pamphlets, bulletins, documents, laws, maps, and papers printed by different departments. Many legislators secure several hundred copies of the new highway maps from the highway commission for distribution each year.

The department of agriculture and markets puts out an attractive and informative bulletin. Various members have sent hundreds of copies of this publication to teachers, school children, libraries, clubs, and other interested individuals in their districts. Such copies usually bear the stamp of the sender, notifying the recipient that he received the document with the compliments of his legislator.

One of the most widely known documents furnished by the state is the annual *Blue Book*. A law was recently enacted increasing the number of copies available to each member to 200. These are given to interested constituents, and if additional copies are required, they can usually be obtained.

The pamphlets containing the latest fishing and hunting laws and regulations are often in demand. Many legislators secure numerous copies of these publications and send them to conservation clubs and other interested people in their districts. To lawyers and business firms, legislators often send publications from the tax commission, the industrial commission, and other bureaus. At least one assemblyman sends out the session's bills as they are enacted into law to every lawyer in his district—about twenty-five of them. (The official price for this service is $5.00.) Still other members send out complete sets of all legislative documents to particularly interested constituents. (The official subscription price of this service is $25.00 paid to the secretary of state.) Teachers and school officials, town, city, and other local officials, tavern operators and barbers, may receive public documents of special interest to them. One assemblyman secured from the department of public instruction the name and address of every school-teacher in his district, and sends to every one pertinent documents issued by the state.

The following letter from state Senator X to his constituent, Doctor P., suggests that some legislators will steal for their voter in a pinch—reminding one of the county commissioner in Philadelphia about whom a commentator once said, "Jimmie, X would steal the Liberty Bell if Bill Vare asked him to." Here is the letter:

"Dear Doctor:

"Under separate cover I am forwarding a 1937 *Blue Book*, which is sent at your request.

"You will note that it is a very special book, with leather trimmings on the back. I had it made up especially for you.

"I am also still trying to get you a set of 1937 statutes and will forward them as soon as possible. *I virtually have to steal them.*

Yours very truly."

Professor Merriam has told of a bill once introduced in Congress for a Hennepin county canal. The canal never got any place, but the man who introduced the bill got reëlected to Congress. And so it is in Everystate. If a member introduces an appropriation bill for some individual or group, he is likely to make new friends because of the publicity that he receives back home; and this is true even though the bill fails.[9] In certain cases, a pressure group may succeed in getting an appropriation bill passed by the legislature and signed by the governor. A pertinent example is a bill passed last session appropriating $500 to a post of the Morning Glory Division, War Veterans of ——, Everystate, for aid in paying convention expenses of 1939 and 1940.[10] If the veterans organization were to oppose an assemblyman or senator in a campaign, his problem of getting reëlected would be made more difficult in some cases, and in others impossible.

Other appropriation bills passed this session provided for the payment of $10,000 to the Disabled American Veterans to promote a national convention and $50,000 to the American Legion for their national convention. About these appropriations, a leading local newspaper stated editorially: "Republicans, Democrats, and Progressives vote for appropriations of this kind because politicians are always afraid of pressure groups. They

[9] I quote the following bill in its entirety, save for proper names.

NO. _____

March 2, 1939—Introduced by Mr. _____. Referred to Committee on Judiciary.

A BILL

To appropriate a sum of money therein named to Edward S. and Alvin S. of the town of _____, _____ county, to reimburse them for hogs killed by bears.

The people of Everystate, represented in Senate and Assembly, do enact as follows:

SECTION 1. There is appropriated from the general fund to Edward S. and Alvin S. of the town of _____, _____ county, Everystate, the sum of two hundred dollars to compensate them for damages sustained by reason of the killing of twenty small pigs and four large pigs by bears. Acceptance of this appropriation shall operate as a full and complete release to the state on the part of Edward S. and Alvin S. on account of such damages and expenses.

SECTION 2. This act shall take effect upon passage and publication.

[10] I quote the following act in its entirety, save for names.

To appropriate a sum of money therein named to the Everystate chapter of Morning Glory Veterans for annual conventions.

The people of Everystate, represented in Senate and Assembly, do enact as follows:

SECTION 1. There is appropriated from the general fund to the Everystate chapter of Morning Glory Veterans of _____, Everystate, comprising veterans primarily from _____, _____, _____, and _____, the sum of five hundred dollars for the purpose of defraying a portion of the convention expenses for the years of 1939 and 1940. The sum of two hundred and fifty dollars shall be paid on August first of each of such years to the then acting secretary and treasurer of such Everystate chapter of Morning Glory Veterans.

SECTION 2. This act shall take effect upon passage and publication.

vote for these appropriations when they know they are nothing more than a racket, because they fear honest opposition may cost them votes."

A member may become widely known because of some controversial or attention-compelling measure that he sponsors. An excellent example of this is the very great publicity that one assemblyman received last spring because of his Married Women's bill.[11] Another method by which a legislator may gain favorable publicity back home is to introduce a bill adding portions of county roads to the state highway system. Even though the bill does not pass (and it probably will not because of added expenses to the state), the voter is apt to take a more friendly attitude toward his representative.[12]

[11] NO. _____

January 31, 1939—Introduced by Mr. _____, Referred to Committee on State Affairs.

A BILL

To create section _____ of the statutes, relating to married persons in service.

The people of Everystate, represented in Senate and Assembly, do enact as follows:

SECTION 1. A new section is added to the statutes to read_____ STATE EMPLOYMENT OF MARRIED PERSONS. No married person shall be employed in the service of the state or of any political subdivision thereof who has a husband or wife regularly employed at a salary of more than fifteen hundred dollars a year plus four hundred dollars for each dependent child, or whose income, together with that of said husband or wife, is two thousand dollars, plus four hundred dollars for each dependent child. This section shall not apply to charitable and penal institutions or married persons employed therein. This act is emergency legislation.

SECTION 2. This act shall take effect July 1, 1939, and shall continue in effect to July 1, 1943.

[12] NO. _____

April 28, 1939—Introduced by Mr._____, Referred to Committee on Highways.

A BILL

Directing the state highway commission to add to the state trunk highway system a certain highway approximately nineteen miles in length completing a state trunk highway from the city of _____ to _____ _____.

The people of Everystate, represented in Senate and Assembly, do enact as follows:

SECTION 1. The state highway commission is authorized and directed to add to the state trunk highway system a highway extending from _____ to _____ _____, following the course of what is known and designated as county trunk highway U northeast and east to the intersection with county trunk highway G, then north along county trunk highway G to its intersection with county trunk highway Q, thence east along county trunk highway Q in _____ and _____ counties to its intersection with county trunk highway H in _____ county, then north along county trunk highway H to its intersection with county trunk highway A, then east along county trunk highway A into the city of _____, thence over what is now designated as state trunk highway one hundred and forty-nine in _____ county to state trunk highway one hundred and forty-one, thence east over county trunk highway F in _____ county to _____ _____.

SECTION 2. This act shall take effect upon passage and publication.

In the 1937 session, bill 425A provided for an additional thirty miles of paved roads to be added to the state trunk highway system in each county. The bill also provided that the respective county boards should decide upon the location of the roads to be paved. Immediately the legislature was flooded with at least thirty-five amendments designating the roads that should be added to the state system. Although the bill was defeated because of these amendments, each of the thirty-odd assemblymen could go home and say, "I tried to pave this road for you." Assemblyman X devoted his best efforts to log-rolling in that session, trying to get U. S. highway X which runs through X county transferred from one county to another. Assemblyman X worked strenuously for this measure for local reasons. He would approach a fellow legislator and promise to vote for anything provided the other legislator would vote for his road bill. His bill was passed. Assemblyman X voted for the governor's suggestion to end the legislative session. He was against a special session. But a few weeks later he returned to the governor's office and demanded a special session. When I asked the reason, I was told: "Do you remember X's road bill? Well, the bill provides for the paving of the wrong road, and he wants a special session to get the road bill passed all over again."

Legislators receive free passes to all University athletic contests, to certain theatres in different parts of the state, to the Junior Prom, the Military Ball, and the State Fair. Some of these passes are given to constituents.

A number of legislators prepare a weekly news letter for newspapers in their district. This gives the assemblyman or senator an opportunity to help educate the voter about what is going on at the capital and elsewhere, and to remind the voter of his representative under the big dome. Lengthy debates on the floor of either house may be staged for the benefit of publicity back home. The facilities of two state-owned radio stations are available to all members at certain times. Legislators give fifteen-minute talks during week days when the legislature is in session. Some of these talks are mainly educational in value; all give the speaker another opportunity to bring his name before his people.[13]

In a survey of this sort, in which I briefly describe a few of the representative activities of the state legislator in personally serving the voter, I am painfully aware that I have barely scratched the surface. I know this because I have used only a fraction of my own materials and observations on the matter. Furthermore, my own data are everywhere most incom-

[13] There are 100 assemblymen in Everystate. Of this number, 55 did not speak over the radio at all in 1939. Of the 45 who spoke one or more times, three spoke five times, seven spoke at least six times, 13 spoke at least three times, 27 spoke at least two times, and 45 spoke at least once. No senator spoke more than three times, and more than one-half of the senators did not speak at all.

plete—like a bucket out of the sea. I also want to state that I have described these compelling personal attention activities as I have observed them and as they have been told to me by legislators and their close acquaintances. I think that many of these activities and services are exceedingly useful to our citizenry. I do not say that each act enumerated here is done with an eye single to the vote. It may, or it may not, be. Why does an individual smile? Who knows? But we do know that certain individuals smile more than others, and the politicians who succeed best are—nine times out of ten—those who smile and do a favor for a friend—and their friends are very many. Some of these individuals would be friendly and helpful, whether or not they were in politics. Actually, the ones who have this flair for making friends, and helping people, often gravitate to politics.

I know one assemblyman who made up his mind in the middle of a legislative session that he would never seek reëlection again. For the remainder of that session, he neglected his mail from his district and did not bother to send out the materials that he formerly had sent out. I also know of another case in which X was elected to the Assembly in 1932, the year of the Democratic landslide. He has been elected every time since then, and he works increasingly hard to keep in close contact with the people of his district. He, like many other members, makes frequent trips to the capital when the legislature is not in session in order to serve his people.

Again I notice that the assemblyman who is defeated after only one term is likely to be one who neglected to pay this personal attention to the voter. Finally, there are a few legislators who are unusually capable and effective as leaders. These rare few may devote their time to the state's business and survive. But these gifted members are the exceptions, like Carter Glass, and their lives are not typical of the overwhelming majority of the men elected and reëlected to public office, whether it be in a neighborhood or a nation—and whether it be Mr. Blodgett or Vice-President Garner.[14]

Even in the case of the strongest assemblymen, the most genuine lead-

[14] I find the following item in today's newspaper. "The House Democratic folding room got its biggest job of the congressional session the other day—mailing out 1,000,000 copies of a speech boosting Jack Garner for president.

"Sent under the frank of Garner's crony, Representative Milton H. West of Texas, the campaign splurge will cost taxpayers approximately $5,000.

"Author of the highly esteemed *opus* is Roy Miller, wealthy Texas oil lobbyist and Garner's campaign impresario. Miller delivered the address before a gathering of prominent Detroit business men. Later, Representative West inserted it into the *Congressional Record* (at a public cost of $55 a page) so it could be printed at cost in the Government Printing Office and then mailed free. *The Capital Times*, June 1, 1939."

ers, these personal attention activities are not neglected. Take the case of XYZ. When his party is in power, XYZ is the speaker. He is eloquent on the stump, compelling in debate, has the energy of a LaGuardia, and is a clear thinker. He stands for specific economic ideals that he discusses before the people of his district and elsewhere. Yet no assemblyman works harder in doing personal services for his voter than he. Every week he is before some commission obtaining a contract carrier's license, or fish for lakes, etc. He is also extremely alert to the administration of W.P.A. in his district. Furthermore, bills introduced that may be of interest to special groups in his area are dispatched to the interested groups as soon as the bills are printed. And finally, there is no assemblyman who spends more time at the state capital between sessions than does XYZ.

The situation is somewhat different in the case of an assemblyman who is closely identified with some powerful group in his district. It does not matter what interest is represented so long as it can command a controlling number of votes. It may be an iron or copper mine, a railroad, a dairy or farmer association, a labor or a party organization. In other districts there is no one organized group so powerful as to be able to decide the outcome of elections. A few years ago, I was talking to a Pennsylvania senator who said that he had to return to Reading to consult his constituents on a pending piece of legislation. Nathan Stanbury, a senator from Philadelphia, where the party organization is—or then was—all-powerful in politics, spoke: "I can very easily see my constituents, for I have only one—Ed Vare."

An assemblyman from the one big city in Everystate, and who represents labor and enjoys strong organized support at the polls, is freer from these personal attention activities, but he cannot neglect labor leaders. He explained his situation to me in these words: "In my own case, I am constantly sending copies of bills to labor leaders, particularly those leaders in whose unions there are large numbers of members in my district. I also make a special point to answer every communication I get from a labor union, partly because I have been advised by the outstanding labor leaders of this state that it is important to keep my name constantly before every union. However, I am perfectly willing to admit that I do some of the personal contact work with constituents that you mention. Every assemblyman does. For example, this year one of my precinct leaders sent me the names of 150 fishing enthusiasts in my district. I sent each one a copy of the latest fishing laws, along with a personal letter wishing them a successful season, etc. To my pleasant surprise, I received about 50 letters of acknowledgment. I expected a few, but to get about one-third! I think this is a good illustration of the point made by you regarding the inflation of the ego of the voter. I found that a lot of fellows will do more

for copies of fishing laws than for a present of $100. It makes them feel important. They can go around showing the laws which say "with the compliments of ———."

The politician is an exceedingly useful—not to say indispensable—institution in our democracy. Some of the needs that he looks after are recognized in formal political theory; others are part of the unwritten constitution of politics—vital, sometimes controlling, but not mentioned in the written constitutions and statutes. In this latter connection, the politician's rôle is determined by the needs of a recognition-hungry constituency, and a constituency made up of private individuals, many of whom are more concerned about their personal whims and wants than about a purpose of state. This phase of the politician's life is as though someone were calling at a law office for legal aid, and the attorney there gave, or did not give, the desired help, but did give his client a cigar. Or as if a doctor went to cure a case of malaria, and fixed a chair for the patient instead. These analogies are not flawless, because the client seeking legal aid and the patient expecting medical attention knew pretty well the sort of thing that they wanted. Politics is more ambiguous. The issues and the methods to be employed are rarely clear. Furthermore, the physician has a certificate of his training and general competence that is issued by the state; the lawyer has a comparable certificate; but there is no equivalent diploma of so exact a nature for the politician.

It is clear from the examples here given, as well as from observation generally, that the assemblyman is in a stronger position as a vote-getter than is his brother who holds no public office. This is not because the politician is going to say, in the words of Edmund Burke: "I could hardly serve you as I have done, and court you too . . . I canvassed you through your affairs, and not your persons." Rather it is because our candidate is in a better position to bend the great powers of his office to meet the wishes of his voter.

I have arbitrarily chosen the state legislature as the focus of my remarks. However, when a friendly alderman kindly read my manuscript, he immediately began citing pertinent illustrations from his life in the ward and at City Hall. Then quite by accident an administrative official from the Department of Agriculture dropped in, read the essay, and said: "Your point about the politician prodding the administrative agency in getting out an order affecting a group is of great importance. I have a number of letters on my desk now from senators and congressmen urging me to act. They may or may not attend our hearings, but they do put in a word for their constituents."

Then I find that the relief organizations of the Fascist party in Italy have "taken over practically the whole network of private and local char-

ity associations looking after the destitute unemployed. Party members and wealthy people are taxed certain sums to go into the unemployment relief funds of the party."[15]

If this arrangement is followed in autocratic Italy, where the Duce's will is law, and if there are instances in this country of public relief officials dispensing relief, not with an eye single to the need of the recipient, but with an eye on his vote, it is reasonable to assume that paying court to the voter, in bestowing either personal attention or personal service, is not only important, but of very wide significance. It evidences a factor in human nature that is present in people as varied as those in authoritarian and democratic states.[16]

But my final idea revolves around the voter. It is his nature and his wishes that determine how the politician performs on our political stage. It seems that many voters are politicians by nature. The voter must be educated to think in terms of law and merit instead of self and favors. He must vote for a candidate because of his interest in the common good, and the belief that the vote he casts will best serve the state. He must realize that the candidate of his choice does not owe him anything for his vote that he does not owe all people in his constituency. If he is intelligent, he understands that his vote is given to the state, not to an individual. It is true that he places his "X" after a candidate's name, but he is thinking of the state. He is actually trying to pick a state's man or a city's man, not a voter's man or a private interest's man. Therefore the voter deserves neither a five-dollar bill nor a job nor a Christmas greeting for his vote; nor can he rightfully give his vote away. All that he can intelligently do is to cast it according to the dictates of his own conscience.

JOHN T. SALTER.

University of Wisconsin.

The Small Fry and the Party Purse. In the workings of municipal politics, scant honor is accorded that lowliest member of the political hierarchy—the precinct captain—yet his is actually an important position, and one which it may be worth while scrutinizing carefully, as a small-scale replica of the entire complex organism. Representing as he does the lowest rung of the political ladder, his contacts are necessarily with the voters directly. He is, in a very literal sense, that "man of the

[15] William Ebenstein, *Fascist Italy*, p. 69.

[16] David Lawrence's "The New Politics," in the *Saturday Evening Post*, October 22, 1938, examines the question, "Does the use of public money by the New Deal influence the vote?" He concludes that it does. It would be strange if it did not, in view of the life-long training that many voters have received in our politics. If it is smart for a voter to cast his ballot for a candidate who sends him a Christmas greeting, it must seem even smarter to support a government that gives him, not a single token or gift, but a steady income.

people" famed in campaign oratory, with his feet on the ground and his hands manipulating the minor gadgets of the political machine. His function is, simply and admittedly, vote-getting, although there are a number of methods which he may use in the attainment of this end. The extent of his personal recognition and emoluments at the hands of the party is determined entirely by the number of voters whom he succeeds in enticing into the fold, and the means employed in corralling them are as diversified as the foibles of human nature and the types of voters represented in a large city.

It is specious reasoning, however, to insist that these semi-professional, small-fry politicos are merely useless parasites maintaining themselves at the public expense. While it is undeniably true that they gain their livelihood from the pockets of the reluctant but impotent taxpayer, it is also true that their very diligence in performing the more menial party labors makes them an important factor, particularly in the poorer precincts. While the loyalty of the precinct captain is primarily to the party, the nature of his activities gives him a certain social significance which is apt to go unappreciated by those who have never encountered him in his capacity of guide, philosopher, and friend to potential party adherents. The miscellany of duties which falls to him includes many activities normally given over to organization secretaries in other countries, such as canvassing and the spreading of propaganda. He has likewise the responsibility for a certain amount of "entertaining"—as witness the neighborhood club, the picnics and clam-bakes, and the free beer. Moreover, he will be found tampering endlessly with the various agencies of local government, for the benefit, real or supposed, of his constituents; and his tender mercies toward the unfortunate (who are also empowered to cast votes) are demonstrated by innumerable benevolences, less expertly performed than those of the trained social worker, but also less perfunctory than those of the police officer.

To interpret accurately the rôle of the precinct captain demands an understanding of the life of the city itself. Chicago, for example, is divided into at least 15 important racial groups, each more or less rigidly confined to its own section of the city. The foreign-born citizen, although he has only a confused conception of local government, is encouraged to exercise, whenever the occasion arises, what he has been given to understand is the precious prerogative of a democracy. Spurred on by the colorful catchphrases with which the newspapers and the demagogues have captured his fancy, he sallies forth on election day to cast his vote of thanks for the party which has been kind to him, or his wife, or his brother-in-law, through the outward, visible sign of the precinct captain. It will be seen that the machine exists by manipulating various governmental powers, by providing patronage and spoils for its adherents, and by gaining the

confidence of the individual voter, all toward the ultimate end of guaranteeing elections. It maintains, within the formal organization of the city government, a separate feudal society dedicated to the interests of the political boss. It constitutes a group of people professionally interested in politics, and, like all parasitic growths, it thrives most unobstructedly upon decadent or apathetic communities.

The precinct captain himself varies in type according to the kind of district which he serves. One is an uncouth laborer, with unofficial headquarters in the corner tavern, and catering to a poverty-ridden community. In another instance, the captain is a retired farmer, who lives in the best house in a respectable residential neighborhood, and serves a middle-income group. In still another case, he is a university graduate and a practicing attorney, resident of a first-class community, and guiding an educated public. The captain who operates in a neighborhood with a transient population is still another type. He may be a truckman, for example, ready with small kindnesses to help the floaters who drift through his bailiwick, whether his benevolence takes the form of handing out small gifts of money or a night's lodging in his garage. Naturally, the more picturesque of the petty politicians are to be found in the poorer districts. Here, too, the power of patronage attains its fullest flower. Wherever the necessity for gaining a livelihood, however meager or precarious, is sharpest, there the precinct captain, with his allotment of jobs in the street-cleaning department or what not is an important over-lord. Where juvenile delinquency runs rampant, it is he who must be looked to to contrive the release of boys involved in petty crimes, thereby incidentally securing the undying gratitude of their families. The reduction of tax assessments, the raising of bail, the payment of fines—all are unofficial duties of the party agent.

These political handy-men are remarkably frank in their attitude toward the positions which they hold. None of them pretends that he is in the game for other than personal ends. One—captain in an Italian neighborhood—complains bitterly that he is required to report daily on a municipal job and receives only two hundred dollars a month. He is dickering for a political post which will require no attendance and will pay three hundred a month. The party which will meet this figure may have his services in the next campaign. This elementary reasoning is typical of his breed. Statistics have shown that, in Chicago, more than 80 per cent of the ward committeemen, holding supposedly unremunerative offices, were making their living from government jobs; 70 per cent of the precinct captains, also presumably serving gratis, were likewise maintained at the public expense. (It is not all velvet, however. When party funds run low, these job-holders are assessed to bolster up the revenue.) In most cities, official appointments are made through the party machine.

The jobs are dealt out by the boss, acting through the nominal official and the mayor's patronage secretary. The boss, in his turn, consults with his local leaders, who present their claims on the plum-basket.

It goes without saying that the qualifications expected are related not so much to fitness for the particular job in question as to the worker's party standing. Inevitably, the results of selection on this basis must be largely unsatisfactory. We have administrative officials working, not under the direction of their nominal superiors, but under the political sponsors who brought about their appointments. The spoils-conducted office is thus subject to a division of authority, which makes for inefficiency and demoralization. It is almost impossible for a department head to suspend a party-worker, however valid may be his reasons, if the machine is behind him. Needless to say, this substitution of party service for public service produces disastrous results in city administration. Not only does it degrade the standards of government agencies, but its effect upon the individual party worker is to burden him with a sense of insecurity. He can have no reasonable assurance of reward for laudable public service, and, on the other hand, he never knows at what moment factional or party defeat will cost him his job. It is small wonder that, under such a system, slackness, graft, and inefficiency flourish like the green bay tree. The present dissatisfaction with the handling of relief and federal works appropriations, for example, and the shortcomings of the social worker in administering the funds, may be more logically laid at the door of the long-prevalent spoils system than ascribed to the dishonesty of any one political group.

It should be apparent, then, that the methods of the party worker are not to be condemned in themselves. The precinct captain, under existing circumstances, is indispensable. He is a hard worker, and even if his time and energy must frequently be expended upon activities not ethically above reproach, the fact remains that he fulfills a necessary function, and hence deserves reward. The question is, what form should that reward take? Disregarding for the moment his motives, his strong-arm methods and corrupt practices in elections, we must grant him his place in the scheme of present-day democracy. The very drudgery involved in canvassing, entertaining, and convincing an apathetic public that it ought to vote entitles him to some recognition. His other activities, notably his tampering with government functions, and playing the rôle of combined police officer and sister of charity, are open to criticism. Such benevolences as the distribution of Christmas baskets, etc., would better be left to the trained social worker; but they are part of his stock in trade. If, however, these performances which overlap with the duties of qualified workers, and his fraudulent manipulation of elections, were removed from his repertoire, he would still remain a valuable factor, owing to his close

personal relations with his neighbors. He would still be the go-between, the interpreter of public affairs to the local citizenry, and, as such, an important party adjunct. Obviously, then, the machine which engages him should rightfully take the responsibility for rewarding him. The present situation, with the whole tax-paying public, regardless of party affiliations, contributing indirectly to his support, is wasteful and illogical, to say the least.

As matters now stand, the precinct captain represents a kind of fifth wheel in the poorer community. The function of the social worker in the district is to adjust the individual to the economic and social order. That of the policeman is to enforce the law and safeguard the individual. That of the precinct captain is to mobilize votes. His benevolences are performed usually with an ulterior motive, interfering with the professional duties of the other two agents, and extraneous to his real function. If some means could be devised whereby he might be confined to his own niche, his activities limited to interpreting his party's aims to the voters in the idiom which they understand, he might well become a constructive force instead of the meddler and fixer and jack-of-all-trades that he now is. But so to regulate his activities would be no small affair, no mere "cleaning up" of this or that district. It would involve a complete reconstruction of the two political parties. It would call for the application of scientific methods to government administration, and a renascence of political conscience in the community at large.

II

For the party worker, however mean his rank, the election is the showdown. Throughout the campaign, his activities gather momentum, reach out in every direction. He smells out votes as a terrier tracks a rat, his methods becoming more desperate as the day approaches when he must prove to the party that he has been doing his bit. The workers used in a campaign are canvassers, party challengers, and, in malodorous precincts, impersonators and ballot-treaters. (One Chicagoan maintains that he has not succeeded in voting in five years; the impersonator has always got to the polls first.) In an Illinois primary, $70,000 was spent in Cook county alone for watchers. In another primary, the precinct captains were allowed from $25 to $80 apiece. Assuming that they had each received only $25, Chicago's cost on that one item was about $75,000. This, of course, does not include the expense to the city of the 30- and 60-day appointments in the various administrative offices, nor the money spent on publicity.

The party funds in any city are spent on the maintenance of headquarters, on publicity, and on workers. Party workers are used chiefly during the campaign. The agents of the machine—the ward committeeman, who is elected, and the precinct captain, his appointee—are actively

engaged in politics at all times. The ward executives are allotted as much of the campaign fund as their position and power demand, and they apportion it among their precinct captains on the same basis. The captain uses his part to pay the workers in his locality. Not infrequently, the ward boss hires "strong-arm" workers for the entire ward, as was the case with the notorious "Moisch" Eller of Chicago's twentieth ward.

Of course, much of the money ladled out on election day never finds its way into the sworn reports of campaign managers. But, even taking these reports at their face value, it is evident that from one-fourth to one-third of the campaign expense goes to pay party workers. Some of these workers have legitimate functions, but many give no service except their votes. This form of bribery, for some reason, appears more palatable, both to giver and taker, than other brands of the same product. Its odor is fully as unpleasant, however, and the net results equally demoralizing. Inevitably it leads to the creation of a venal class of voters, and the principle of democratic government is hopelessly lost in the shuffle.

The point has been reached where a political group must either limit the effectiveness of its campaign by restricting its budget to the free-will offerings of the rank and file (which are practically *nil*) or else must compromise with the business interests, assess office-holders and individual candidates, or steal from the public funds. At present, the party does arbitrarily assess candidates for their campaign expenses, the amount of such assessment depending on several factors: the importance of the office in question, the candidates' generosity and private resources, and so on. In a recent primary, more than 60 per cent of the funds came from such assessments. Needless to say, this precludes the possibility of a man without considerable private income, or else powerful financial backing, running for office. Financial backing is invariably forthcoming, however, when business has an axe to grind. Every "investigation" into campaign expenditures is enlivened by the reluctant accounts of such transactions. John Doe, gulping his morning coffee, stares in bewilderment at the news story with its imposing figures, shakes his head helplessly, and turns to Orphan Annie, which is so much easier to understand. He realizes that there is some connection between, say, the munificent party enthusiasm of the utilities magnate and the size of his gas bill. He may even recall vaguely the much-publicized generosity of Mr. Samuel Insull, a few years back, who numbered among the recipients of his bounty a United States senator, a national committeeman, a state's attorney, a state governor, and a city mayor. And yet, John Doe's memory is a short one, and the whole situation is so involved, so hopelessly beyond his own powers to correct, that he is constrained to give it up with hardly a struggle. "These dirty politicians!," he sputters, throwing down the offending paper. "Bunch of crooks, that's all they are. Why, no decent man would have

anything to do with politics. . . ." Which is largely true, the trouble being that Mr. Doe has, as usual, stopped short with the statement of fact, instead of pursuing the matter to its basic Why.

A third source of party funds—and one which merely serves to confirm John in his low opinion of politicos in general—is the criminal element. In the famous Chicago mayoralty campaign of 1927, Al Capone is said to have contributed $250,000 to the Thompson fund, while the opposing candidate, William E. Dever, is known to have refused an offer of $100,000 from the underworld magnates. Diamond Joe Esposito, committeeman of the twenty-sixth ward, died at the hands of a group of beer-runners who had failed to receive the protection they had paid for in the form of contributions made through Esposito to the Deneen campaign fund. While it is true that the racketeers have not operated on so picturesque a scale since the repeal of prohibition, they are still definitely with us. The keeper of the disorderly house or the gambling joint still depends upon his stand-in with the dominant party to remain in business. Protection is still guaranteed and penalties fixed—at a price. In the transfer of such moneys, the entrepreneur is quite as likely to be the precinct captain as the city boss. The secrecy attending these transactions, and the many and soiled hands through which they pass, make any estimate necessarily a matter of guesswork. We know, at any rate, that the jobholder, the powerful money interest, and the criminal, represent the only fixed and dependable sources of campaign funds. They stand as the party's only bulwark against disintegration and defeat, shoddy and reprehensible though they may be. There are, to be sure, a certain number of respectable citizens who, impelled by traditional loyalty or by principle, will contribute to their party when asked to do so. The party, however, has no assurance that it may rely on such support. Neither the Republicans nor the Democrats have a dues-sustaining membership; the funds derived from "reputable" sources are so paltry as to be almost negligible.

It must not be supposed that the existing hit-or-miss style of campaign financing has been allowed to grow to its present stature with no attempt at curbing it. Various remedies have been tried, but the patient has not, so far, rallied to any appreciable degree. The Corrupt and Illegal Practices Act of 1883 has been the most effective national legislation to this end, and has furnished a model for subsequent state laws. It attempts to fix the responsibility for financing methods on the individual candidate, to limit his expenditures, and to prevent expenditures on the part of outsiders interested in the outcome of the election. The Corrupt Practice Law, which stands as our basic law today, is weakened by limitation of its provisions to final elections, and omitting primaries and conventions. It regulates the conduct of campaigns, particularly with regard to contributions, and aims at continuous publicity as to receipts and disbursements. Thus the primaries are controlled only by congressional investi-

gations, and, in extreme cases, by legislative disbarment. The act likewise fails in that it does not provide for uniformity in the reports of various committees.

The state should, of course, be better able to deal with malpractice in the primaries and final elections than the national government. With the possible exceptions of Massachusetts and Wisconsin, however, the results of state legislation have been rather discouraging. In most cases, the lawmakers' attention has focused on the regulation of expenditures, rather than on contributions. The law against bribery is almost universal, for example, yet there is no accord as to just what constitutes bribery. Its interpretations are legion. Hiring automobiles to take voters to the polls is generally allowed. In Massachusetts, campaign dollars may be spent on "refreshments"—so long as the refreshments are not intoxicating. The majority of the states depend on ordinary criminal procedure and contest procedure for enforcement of the campaign laws. A contest over a legislative office is decided in the body to which the candidate in question has been elected—an arrangement which, on the face of it, does not make for the most unbiased judgment in such a matter. Criminal procedure, on the other hand, is extremely cumbersome, and its results hinge all too often on the existing political temper of the community and on the spectacular effect of the offense on the public mind.

It will be seen, therefore, that the remedies thus far have been confined to attempts to safeguard the public against fraud in politics. Cutting through the legal verbosity which attends these various corrective measures, one acquires a mental picture of John Doe on the one hand, and a group of unscrupulous private individuals on the other, with Government waiting to step into the breach if the wily politicians do wrong by John. And here, in rather hazy metaphor, we perceive the weak link in the chain. For, in actual fact, we have long since ceased to look upon either of the major parties as a private group. This is amply proved by our efforts to keep them in line by means of legislative weapons. The two-party system is accepted as almost as integral a part of the national life as the Supreme Court. Obviously, a new approach is essential. Since the party is tacitly understood to be a public trust, it should be definitely held accountable to the public which it purports to serve. That all the legislation to date has been of a negative type, and has failed to provide a positive and effectual method for meeting the party-finance problem, is the crux of the whole entanglement. (Dr. Louise Overacker, of Wellesley College, has gone into the matter very comprehensively in her *Money in Elections.*)

III

It would appear, then, that under the present bi-party system the only hope for honest and efficient operation lies in (1) state laws which will insist upon adequate publicity as to the source, amount, and distribution

of party funds, in primaries and elections alike; (2) augmenting the expense fund of the poorer candidate from the public treasury; (3) a close adherence to the merit system in the bestowal of public office; (4) adequate machinery for the regulation of primaries and elections. The spoils system is admittedly the cancer which is devitalizing democratic government. Its ramifications, at first thought, appear so widespread and so impregnable that reform seems well-nigh impossible. Yet it has been demonstrated that reforms can be effected. More than 400 cities have already adopted the city manager plan of government, with heartening results.

It is generally conceded that the prevalence of the spoils system in the larger cities is due to the wide discrepancies between political power and distributed wealth. When the financial power is in the hands of the few and the electoral power in the hands of the many, bargaining and corruption must necessarily follow—unless, of course, those who hold the voting majority will use their numerical advantage to improve their common status. Otherwise, those who have wealth, and who seek political power or privilege, will inevitably use their money to purchase it. It is tragically easy for a hungry man to forget his principles. He will sell his vote if there is a market for it. Such abstractions as the sacred franchise right of the American citizen are heavily over-balanced by the more immediate claim of a sick child or an empty coal-bin. Precincts peopled by foreign-born or first-generation Americans, neighborhoods where poverty and its twin sister, crime, are the ruling forces—here the vote-buyer and the job-broker exercise their unhealthy prerogatives without restraint.

It must be remembered that the local party is merely a section of the general election machinery. The sins of the petty politician are not his own sins; they are the reflection, *in parvo*, of the defects of the larger whole. Considering the vast number of administrative jobs to be filled in a large city, one realizes that the precinct captain is a very busy man when it comes to selecting the personnel—a tangible, flesh-and-blood Santa Claus, with his bag full of presents for good little workers. Moreover, it is the decentralized, bi-partisan handling of the election that gives him his control over election officials and his opportunity to defraud. His *modus operandi* is not of his own invention. It has been bequeathed him by generations of party-builders. Long before his time, the political machine outgrew its original simple form into a huge, complicated contraption, and long since it was discovered that the gears would not mesh without financial oil. The responsibility for the fact that the existing method of lubrication is wasteful, and that the machine has entirely too many cogs, cannot justly be laid at his door. A reorganization of the system itself would appear far more logical than the perpetual criticism of this or that official, or of this or that party. The many small voting pre-

cincts in a city like Chicago overburden the machine with innumerable agents. Would it not be possible to enlarge the voting areas, so that the number of officials could be decreased? Fewer party agents would mean a curtailment of party expenses. For the payment of this smaller number of salaries, the money might come directly from the party's coffers, rather than indirectly from the public pocket. Efficient election officials, apportioned to the polling places according to the number of voters in the area, ought to be able to handle the mechanics of the election without a great deal of trouble.

As to the apathy of the average citizen toward his franchise privilege (admittedly a strong contributing factor in political corruption), here, too, certain improvements might be effected. The process of voting itself, for example, might well be made less tedious. A system of permanent registration would help matters considerably. Notifying all potential voters about details of the election, and cancellation of registration as a penalty for not voting, might be suggested as means of awakening the proverbially indifferent citizen to his electoral duties. Such measures would be valuable, too, in limiting the activities of the precinct captain. The adoption of the short ballot, and less frequent elections, might be steps in the right direction. Widening the scope of the political picture, it may be suggested in passing that the direct popular election of president, and election of representatives by a system of proportional representation, would separate national from local issues, and might serve to impress John Doe with the value of his vote. It would also, incidentally, force the parties to formulate their issues more clearly. We might even have a welcome change from the periodic spectacle of Mr. Smith demanding his election on the grounds that Mr. Jones is a four-flusher, a moral reprobate, and a wife-beater, and Mr. Jones proclaiming *his* fitness for office for the reason that Mr. Smith has the same doubtful qualifications. But here, perhaps, we stray into Utopia.

Returning, then, to the realities, we see our precinct captain, not as an intrinsically corrupt and blameworthy individual, but as the littlest cog in a vast network of political machinery. It has been shown that he is indispensable to the party, at least in an urban community where numbers are power. He adapts the form of our institutions to the human equation, and conducts himself according to the *mores* of the group he serves. His work as community agent will continue just so long as his community requires it, no matter how perfunctory and self-seeking that work may be. By the same token, it will be restricted wherever the merit system of personnel-selection is rigidly applied to the administrative offices of the city. It will be restricted wherever his power to exchange favors is curtailed. Particularly will his activities be limited where the use of money is regulated in the conduct of elections, and where adequate funds are provided,

by the party itself, for campaign management. His future, in any highly industrialized center, is dependent wholly on the type of electors to be found there. With an active and interested citizen-body, his functions will be minimized, for most of his work in the past has been to the end of persuading John Doe to vote. If such artificial stimulation were no longer needed, his labors would automatically be lightened. At present, he mobilizes public opinion, in his own domain, behind the party standard. In the future, perhaps, he will wait upon the electors for their opinions on candidates and issues, and will convey these to the upper councils of the party. It would seem that only in this capacity can he achieve a constructive destiny, and thus truly represent the community which he serves.

SONYA FORTHAL.

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Some Soundings in the Party System: Rural Precinct Committeemen. Students of political phenomena have shown an increasing interest, during the past few years, in objective analysis of the functioning of party machinery and of the men who make up that machinery. If the publications on the subject which have come to the writer's attention are typical, the existing literature on party organization practically ignores such organization in rural areas and contains no systematic survey of the opinions and sentiments of organization politicians. The present study is designed as a contribution toward remedying this situation.

For purposes of the investigation, 10 counties forming a compact area in southeastern Illinois were chosen. The area is predominantly rural, the largest city having a population of only 12,000. The preponderant majority of the committeemen included in the study live in the open country or in sma l towns which depend largely on agriculture for their business.

The st.dy is limited to precinct committeemen. In downstate Illinois, these a.e chosen at the party primaries for two-year terms, not appointed by another party official as in Chicago. Each precinct is entitled to one committeeman to represent it in the councils of each party. Collectively, the committeemen form the county committee, serving under a county chairman elected from and by the precinct committeemen.

In these 10 counties, there are 215 precincts; and the statistics given below on voting for committeemen and on the occupations of committeemen are based on this number. The other data presented are derived from answers to questionnaires, and therefore are based on only part of the precincts. Of the 215 Democratic committeemen 103, and of the 215 Republican committeemen 134, replied to the questionnaire.

The election statistics used are for the 1938 primary, and were taken from the original records of the clerks of the various counties. Information regarding the occupations of committeemen was secured by interviews

with people in a position to know the committeemen personally: local officials, key members of the committees, newspaper publishers, etc. Other data regarding the backgrounds and attitudes of committeemen were secured by a questionnaire. The rather surprisingly large percentage of replies received was probably due to two things: (1) a genuine spirit of coöperation usually shown by the various chairmen when the objects of the study were explained in a personal interview, and (2) accompanying the questionnaires with copies of letters from two men prominent in Illinois politics who endorsed the project (T. V. Smith and William R. McCauley, Democratic congressman-at-large and 1938 Republican nominee for state treasurer, respectively).

Voter Interest in the Office of Committeeman. Professor William E. Mosher found that only 36 per cent of the party enrollment voted for Republican committeemen in primary elections in selected New York cities in 1932.[1] This fact seems to indicate an amazing lack of attention to this office by the voters. It must be remembered, however, that the above figure is based on the total party *enrollment*—not on the number of votes actually cast. The problem of failure to vote for committeemen is thus merely a part of the larger problem of non-voting in general. Professor Mosher's figure is influenced by the number of people who do not vote at all. If the total number of votes actually cast had been used in calculating the percentage, the case for voter negligence regarding precinct committeemen would doubtless be less alarming. Thus, in the 10 counties studied, 82.5 per cent of the voters going to the polls voted for committeemen. Where there were contests, voter participation increased to 90.8 per cent. Indeed, in the 10 counties studied, non-voting for committeemen was not much greater than non-voting for U. S. senator. In fact, in precincts in which there were contests for the office of committeeman, 90.8 per cent of the voters voted for committeeman, while only 84.3 per cent of the total vote for the counties was cast for U. S. senator. (See Table I)

TABLE I

VOTING IN TEN RURAL ILLINOIS COUNTIES, 1938 PRIMARY

	Per Cent of Total Vote Cast[a]
For all candidates for U. S. senatorial nomination	84.3
For all candidates for precinct committeeman:	
All precincts	82.5
Contested precincts only	90.8

[a] Percentages are based on totals for both parties.

[1] "Party and Government Control at the Grass Roots," *National Municipal Review*, Vol. 24, p. 16 (Jan., 1935).

In nine primaries out of the 20 studied, the total county vote for committeemen was actually larger than the vote for contestants for the nominations for U. S. senator—three in the Democratic primary and six in the Republican primary. These facts suggest that in these rural counties no case can be made out for the contention (sometimes made by students of government) that voters do not vote where posts in the party hierarchy are concerned to the same extent that they vote in contests involving offices whose functions are better understood. In these counties, the voters may vote for committeemen unintelligently, merely ratifying a choice made by a machine; but they do vote.

If the lack of contests for the office of committeeman is taken as an index of voter interest, the case for voter negligence where this office is concerned becomes more convincing. In the 10 counties, there were contests in only 36 per cent of the precincts. There is a pronounced difference between the two major parties in this respect. In the Democratic primary, 50 per cent of the precincts were contested, while only 22 per cent of the precincts were contested in the Republican primary. The most likely explanation for this lies in the fact that the Democrats have more incentive to run for committeeman, since their party has control of both the state and federal patronage.[2]

Characteristics of Committeemen of the Ten Counties. Professor Mosher concluded that the Republican committeemen in 18 New York cities in 1932 contained a preponderant number of the "lesser employment classes"—clerks, laborers, salesmen, etc.—as distinguished from merchants, business executives, and professional men; also that a large proportion of the group were government employees.[3] Professor Harold F. Gosnell's studies of 1928 and 1936 Chicago precinct committeemen point to substantially the same conclusions, except that the representation of public employees, merchants, and professional men in the Chicago group was heavier than in the New York group and the representation of the "lesser employments" was lighter.[4]

The group of rural Illinois committeemen studied contained a significantly smaller proportion of public employees than the Chicago group.[5] If farmers are considered as a "lesser employment" group, the rural Illinois group contains a larger proportion of people in the "lesser employ-

[2] There was not much difference between the parties in the percentage of voters voting for committeeman, although the percentages in the Democratic primary were a little higher.

[3] *Op. cit.*, p. 17.

[4] Harold F. Gosnell, *Machine Politics: Chicago Model* (University of Chicago Press, 1937), p. 54.

[5] The figures for New York relate only to Republican committeemen, and hence are not comparable with the figures for the rural Illinois counties in this respect, since the Republican party did not have control of state or federal patronage at the time the study was made.

ment" classification (and therefore relatively fewer merchants, business men, and professional men) than the Chicago group. This is to be expected: rural areas naturally contain relatively few business and professional men and relatively large numbers of farmers.

When Professor Mosher speaks of the "preponderance" of the "lesser employment" classes,[6] he seems to imply that the New York committeemen are not representative of the population as a whole, although he does not give figures showing to what extent the "lesser employment" classes make up the entire population of the communities studied. Such a comparison was attempted for the 10 counties reported on here for two occupations, i.e., farmers and professional men. The available data suggest that, as far as the 10 counties studied are concerned, no case can be made out for the contention that professional men contribute to the party committees less than their share and farmers more than their share. In fact, professional men seem to be over-represented on the party committees to a greater extent than farmers. (See Table II) Comparisons cannot be made with absolute confidence, because of the possibility that the

TABLE II

COMPARISON OF OCCUPATIONAL GROUPINGS OF PRECINCT COMMITTEEMEN AND GENERAL POPULATION, TEN RURAL ILLINOIS COUNTIES, 1939

	Total Population—Census Data[a]	*Occupations of Committeemen (Both Parties)*[a]	
		Present Occupations	*Using Former Occupations of Government Employees*[c]
Professions	3[b]	5	6
Farmers	45	37	48

[a] Figures are percentages of totals.

[b] Figure given by using figures for "other professional and semi-professional services."

[c] Government employees were classified by former occupations.

Bureau of the Census defined occupational groupings in a little different way than did the writer in classifying committeemen. The point sought to be established here is simply that the so-called unrepresentative character of party committees due to the preponderance of the "lesser employment classes" must rest on speculation until it is possible to make a valid comparison between occupational groupings within the committees and occupational groupings of the whole population of the communities involved.

[6] *Op. cit.*, p. 17.

A comparison of the extent to which the two major parties recruit their committees from the various occupational strata revealed that the Republican committees tend to attract a slightly larger proportion of their membership from the "independent business man" class than do the Democratic committees, while the Democratic committees appear to attract farmers in a slightly larger proportion than do the Republicans. Except for these relatively small differences, the available data indicate that the committees of the two major parties in these counties recruit their membership from the various occupational strata in about the same way. (See Table III)

TABLE III

OCCUPATIONS OF PRECINCT COMMITTEEMEN, TEN RURAL ILLINOIS COUNTIES, 1939 (CLASSIFYING GOVERNMENT EMPLOYEES BY FORMER OCCUPATIONS)

	Per Cent of Total	
	Dem.	*Rep.*
Government employees[a]	0.5	1.0
Attorneys	1.5	1.0
Other professions	5.1	4.3
Merchants	5.6	8.2
Other business men	7.2	13.9
Business executives	2.0	1.4
Clerks, salesmen, laborers	25.5	26.0
Farmers	52.6	44.2

[a] Some government employees had held governmental posts so long that they could not be said to have any other occupation.

From this point on, statements and conclusions are based on data secured by answers to questionnaires. The committeemen answering questionnaires were therefore a sample group. Was the sample truly representative of the entire group? Was the sample a random one, or was there a selective process at work which caused certain types of committeemen to reply in greater proportions than other types?

Republicans replied in greater proportions than did Democrats; 134 out of the 215 Republicans, or 62 per cent, replied, while only 103 out of the 215 Democrats (48 per cent) did so. Adding the figures for the two parties, 237 replies out of a possible 430, or 55.1 per cent, were received. The sample was a representative one as far as occupations are concerned. This test (occupational groupings) is probably the most significant one that could be applied. It is the writer's opinion, however, that the sample may contain a disproportionately small number of committeemen having served for long periods of time and committeemen whose motives for

party service are in a large measure ulterior. Data derived from the answers to the questionnaire must be interpreted with these considerations in mind.

The available data suggest that there is a significant difference between the party committees in these counties in the extent to which different educational levels are drawn upon.[7] The Republican sample group contained a larger percentage of college and professionally trained men, while the Democratic group contained a larger proportion of men having only a high school education. (See Table IV)

TABLE IV

EDUCATIONAL BACKGROUND OF PRECINCT COMMITTEEMEN, TEN RURAL ILLINOIS COUNTIES, 1939[a]

	Per Cent of Total Replying	
	Democrats	*Republicans*
Grammar school only	54	58
High school only	33	20
College and professional	13	22

[a] Data derived from answers to questionnaires.

The average length of service of the Democrats replying to the questionnaire was 3.14 terms; of the Republicans, 2.68 terms. Committeemen with long service records may be under-represented in the sample, but even if this be so the conclusion is warranted (since the sample constitutes more than half of the entire group) that a large proportion of the committeemen in these ten counties have served less than three terms. There seems to be a considerable "turnover."

Opinions and Activities of Committeemen in the Ten Counties. A decisive majority of the Republicans (65 per cent) and 32 per cent of the Democrats answering the questionnaire said that they favored a strict merit system for most state and federal appointments. The difference between the parties in this respect was no doubt due to the fact that the Democrats control the state and federal patronage. Different occupational groups reacted to this question in different ways. Only about one-fourth of the Democratic government employees and officers said that they favored a strict merit system—a smaller proportion favorable than in the entire number of Democratic replies. In the Republican ranks, the committeemen who had profited, or whose families had profited, from patronage

[7] The better educated committeemen may have replied in greater proportions than those less well educated, but the bias in sampling, if there was one, would presumably be about the same in both parties.

divided on the question in practically the same proportions as the entire Republican group answering the question. In both parties, farmers and professional men said that they were favorable to the merit system in larger proportions than did merchants, other business men, clerks, laborers, and salesmen.

If the committeemen expressing themselves on the merit system are classified according to educational background, it is seen that college and professionally trained men said that they favored it in larger proportions than those having only grammar or high school education. (See Table V) These data provide some factual foundation for Professor Mosher's thesis

TABLE V

EFFECT OF EDUCATIONAL BACKGROUND ON COMMITTEEMEN'S ATTITUDES TOWARD THE MERIT SYSTEM, TEN RURAL ILLINOIS COUNTIES, 1939[a]

	Democrats		*Republicans*		*Both Parties*	
	No. For	*No. Against*	*No. For*	*No. Against*	*No. For*	*No. Against*
Common school only	14	30	41	20	55	50
High school only	9	17	11	11	20	28
College and professional	5	6	19	6	24	12

[a] Data derived from questionnaires yielding usable answers regarding both education and attitude toward the merit system.

that recruitment of party committees from the higher educational levels to a greater extent than now obtains would tend to cause governmental problems to be considered from the standpoint of the general interest to a greater degree than they now are.[8] This principle does not seem to hold true, however, on the secondary school level. The proportion of the committeemen having a high school education and saying that they favored the merit principle was smaller than the proportion of the committeemen having only a common school education. (See Table V) The number of cases involved is small. Their seeming import must be accepted with reservation. The figures do raise a doubt, however, as to the adequacy of the high school social science curricula in these counties.

The answers of the committeemen to the questionnaires suggest that the "volunteer" precinct worker—one not holding or expecting a government job or pay—fills a rather important rôle in rural party organization. The data must be interpreted with caution. Committeemen who could count on "volunteer" workers may have been over-represented in the group replying to the question. Perhaps some of the committeemen were

[8] *Op. cit.*, p. 17.

too sanguine as to the number of such workers in their precincts. A surprisingly large number of those replying to the question said that they could get "volunteer" workers in their precincts. Only 16 per cent of the Republicans and 23 per cent of the Democrats said that they could find none at all. These figures may not mean what they appear to mean. Yet, after all allowances are made, the fact remains that a surprisingly large number of committeemen said that they could get volunteer workers in their precincts. The general consensus of opinion was that these workers could devote less time to political activity than political jobholders or paid workers, but that the volunteer workers were more effective in influencing votes, during the time that they did spend, than the jobholders and paid workers. (See Table VI) Even when discounted, the above expressions of the committeemen seem to the writer to point to this interesting

TABLE VI

OPINIONS OF COMMITTEEMEN IN TEN RURAL ILLINOIS COUNTIES AS TO EFFECTIVENESS OF "VOLUNTEER" POLITICAL WORKERS[a]

	Dem.	*Rep.*	*Both Parties*
Can spend as much time as paid workers or political job-holders	32	49	81
Cannot spend as much time as paid workers or political job-holders	58	79	137
Hour for hour, as effective as paid workers or political job-holders	56	66	122
Hour for hour, less effective than paid workers or political job-holders	38	49	87

[a] Data derived from usable answers to questionnaires.

implication: as far as rural areas are concerned, the wish-thought of some students who dream of "local parties dedicated to the ideal of voluntary precinct work"[9] (such as the Cincinnati Charter party) may not be as fantastic as might appear at first blush. The existing party system in the counties studied apparently already contains some "volunteers."

A majority of the committeemen answering the questionnaire said that people had solicited them for charity who would not have done so had they not been committeemen. A decisive majority also said that they took an active part in the campaigns of candidates wishing to be national convention delegates. Influencing of the appointment of election officials by the committeemen seems to be a common practice in the counties studied.

Conclusion. Collecting the basic information for this study involved

[9] Gosnell, *op. cit.*, p. 192.

conversations with quite a number of committeemen—especially county chairmen. A word should be said as to the writer's impressions resulting from these personal contacts. Let it be noted that his respect for the rural politician was increased, not lessened, as a result of these face-to-face contacts. With but few exceptions, such politicians appear to be at least as frank, as honest, and as well intentioned as the general run of human kind. It may be that some of them have flaws in their characters about which the writer knows nothing; but the same thing would have to be said of any group selected at random. It is the writer's feeling that much of the contempt in which the general public holds the politician is mistakenly conceived as far as the run-of-the-mill rural politician is concerned. Perhaps such contempt exists because it is founded on a stereotype. This is not to argue that rural politicians do not include a large number of men practicing politics from the gain motive rather than from the service motive. But in their complex of motives the sheer lure of the game appears to play a rather important part also. Perhaps one reason why the politician's place in the general public's esteem is relatively low is that the standard which he is expected to measure up to is relatively high—much higher than that by which the daily acts of non-politicians are judged.

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Permanent Advisory Committees to the British Government Departments. A significant development in British government since the turn of the century is the permanent advisory committees to the British executive departments. Writing in 1926, Professor John A. Fairlie stated: "Detailed information as to the operation of such advisory committees is not available; but the multiplication of such bodies in recent years is an indication that they have been found useful."[1] At the time when this statement was written, there were 60 permanent advisory committees. In the subsequent 13 years, 37 additional ones have been established, making a total of 97 at the present time.[2] This continued multiplication, and the

[1] "Advisory Committees in British Administration," in this REVIEW, Vol. 20, pp. 813–822 (Nov., 1926).

[2] The following list comprises the bulk of committees in existence today, with the dates of their creation:

Ministry of Agriculture and Fisheries
- Small Holdings and Allotments Advisory Committees, 1907
- Advisory Council for Agricultural Education, 1913
- Consultative Councils to the Forestry Commission, 1919
- Agricultural Advisory Council, 1919
- Council of Agriculture for England, 1919
- Council of Agriculture for Wales, 1919
- Fertilizer and Feeding Stuffs Committee, 1919; 1926
- Committee to Advise on Grants to Unemployed Persons, 1919
- Market Supply Committee, 1919
- Sea Fish Commission, 1919
- Cattle Committee, 1919; 1934
- County Agricultural Committees, 1919
- Committee on Agricultural Credit, 1922
- County Agricultural Wages Committee, 1924
- Agricultural Wages Board, 1924
- Agricultural Land Utilization Advisory Committee, 1931
- Consumers' Committees and Committee of Investigation under Agricultural Marketing Schemes, 1931
- Advisory Committee to the Sugar Commission, 1936
- Land Fertility Committee, 1937
- Livestock Advisory Committee, 1937
- Slaughter House Schemes Advisory Committee, 1937
- Livestock Market Orders Advisory Committee, 1937
- Whitefish Industry Joint Council, 1938
- Herring Industry Advisory Council, 1938
- Bacon Curers' Advisory Committee, 1938

Air Ministry
- Aëronautics Advisory Committee, 1909, replaced by Aëronautical Research Committee, 1920

Colonial Office
- Advisory Committee on Tropical Diseases Research Fund, 1904
- Colonial Survey Committee, 1905

extensive use of such committees made by the departments, indicates that they fill an imperative need in British government by providing expert advice. Likewise, they serve to protect the public interest, because they furnish an adequate safeguard for the public against a bureaucracy whose powers are increasing as the expansion of governmental functions continues.

Colonial Advisory Medical and Sanitary Committee, 1909
Colonial Research Committee, 1919
Advisory Committee on Native Education in the British Tropical African Dependencies, 1923
Advisory Committee on Social Hygiene, 1924
Board of Education
Education Consultative Committee, 1899; 1921
Advisory Committee on Grants to Universities and Colleges, 1911
Adult Education Committee, 1921
Advisory Committee on Freedom of Educational Films from Customs Duty, 1935
Ministry of Health
National Insurance Committees, 1911; 1924
Advisory Committee on Health Insurance
Consultative Councils, 1919
a. Medical and Allied Services
b. Local Health Administration
c. General Health Questions
d. Water Supplies
Therapeutic Substances Advisory Committee, 1925
Rural Housing Advisory Committee, 1931
Central Housing Advisory Committee, 1935
Medical Benefit Council for Northern Ireland, 1936
Advisory Committee on Tuberculosis Seamen, 1936
National Advisory Council for Physical Training and Recreation for England and Wales, 1937
Home Office
Council on Police Forces in England and Wales, 1919
Prison Education Committee
Advisory Committee on Street Collections, 1923
Probation and After-Care Advisory Committee
Poisons Board, 1933
Central Advisory Council for Fire Services, 1938
Ministry of Labor
National Advisory Council for Juvenile Employment for England and Wales
London Regional Advisory Council for Juvenile Employment
National Council for Juvenile Employment for Scotland
Advisory Committee on Unemployment Insurance, 1931
Local Advisory Committees to the Unemployment Assistance Board, 1934
Unemployment Insurance Statutory Commission, 1934; 1935
Central and Local Unemployment Insurance Committees, 1935
Local Employment Committees, 1935
Ministry of Pensions
Local Pensions Committees, 1908
Post Office
Post Office Advisory Council

This significance of advisory committees in British government is evident in the broad scope of their purposes, which fall into four large categories. The first of these is to advise and assist the minister in matters of administration; this is the purpose for which all committees were established originally. The second is to provide for devolution of administration

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Scottish Office
- Consultative Councils to the Scottish Board of Health, 1919
- Council of Agriculture, 1920
- Education Advisory Council, 1920
- Probation Committees, 1931
- Housing Advisory Committee, 1935
- Local Housing Advisory Board, 1935
- Criminal Lunatic Asylum Advisory Committee, 1935
- Records Advisory Council, 1937
- National Advisory Council for Physical Training and Recreation, 1937
- Scottish Central Advisory Council for Fire Services, 1938

Board of Trade
- Advisory Council
- Census of Production Advisory Committee, 1906
- Advisory Committee on Merchant Shipping, 1906
- Advisory Committee on Labor Exchanges, 1909
- District Trade Committees, 1909
- Advisory Committee on Pilotage, 1913
- Advisory Committee for Coal and the Coal Industry, 1920
- Advisory Committee for Metalliferous Mining and Quarrying Industry, 1920
- Dyestuffs Industry Development Committee and Dyestuffs Licensing Advisory Committee of 1920 were amalgamated into Dyestuffs Advisory Committee, 1934
- Advisory Committee on Overseas Trade of 1920, replaced by Advisory Committee on Export Guarantees, 1937
- Importation of Plumage Advisory Committee, 1921
- Safeguarding of Industries Committee, 1921
- Advisory Committee on Merchandise Marks, 1926
- Advisory Committee on Cinematograph Films, 1927, replaced by Cinematograph Films Council, 1938
- National and District Coal Mines Committees of Investigation, 1930
- Ships Replacement Committee, 1935
- Tramp Shipping Subsidy Committee, 1935
- Advisory Committee to the Cotton Spindles Board, 1936

Ministry of Transport
- Advisory Committees from Panel of Experts, 1919
- Rates Advisory Committee, 1919
- Electricity Advisory Committee, 1919
- Roads Advisory Committee, 1919, replaced by Transport Advisory Council, 1933
- Tramways Advisory Committee, 1920
- London and Home Counties Traffic Advisory Committee, 1924; 1933

Treasury
- Advisory Committee to the Development Commissioners, 1909
- Import Duties Advisory Committee, 1932

through the extensive use of local advisory committees. The third purpose is to provide a means of correlation of several independent government departments which are together responsible for administering a single service. The fourth and most important purpose is to aid in determining the content of delegated legislation.

The statute or order constituting each advisory committee states one of these four as the committee's purpose: administration, devolution, correlation, or legislation. Nevertheless, there are two other valuable attributes which attach to each committee, in addition to its primary function. First, the committees provide a means by which government can secure the services of competent men whose knowledge and experience otherwise might not have been available to the government. Second, the committees serve as a means of protecting departments against the charge that they are bureaucratic. The presence of these two factors in each committee, perhaps even more than the primary purpose, assures the continued use and multiplication of such bodies.

The four functions of advisory committees already indicated are of particular interest to students of democratic government in that they mark an attempt to bring democratic processes into administration, that hitherto isolated "fourth" branch of government. If advisory committees reduce the evils of bureaucracy, their use should be encouraged; for it is in the bureaucratic control of administration that, some believe, the real power in British government resides. Ramsay Muir writes that "in recent years, under the influence of cabinet dictatorship, Parliament has gone far towards making . . . a surrender, not to the cabinet (which, after all, is under some sort of control, ineffective as it may be), but to the bureaucracy, which, behind the veil [of ministerial responsibility], wields so much of the reality of power."[3] Professor Harold J. Laski testifies to the democratic influence of advisory committees on administration when he declares: "They popularize the administrative process by widening the area of persons able to scrutinize its substance from an angle of competence. . . . They prevent authority from degenerating into anarchy by the indefinite division of power."[4]

The first purpose, that of aiding administration, is achieved through bringing representative opinion to bear upon the actual administration of a governmental service. When that representative opinion is very general, the advisory committees aim to be solely vehicles of lay opinion on subjects of broad scope and interest. This is especially true of the numerous boards of visitors connected with hospitals, prisons, and other public institutions. The Scottish Criminal Lunatic Asylum Advisory Committee is an example of this type.[5] Its members give advice as representatives of the general public interested in the management of the institution named.

[3] *How Britain Is Governed* (New York, 1933), p. 64.
[4] *Grammar of Politics* (New Haven, 1925), p. 384.
[5] *25 and 26 Geo. 5, c. 32.*

The representative opinion which advisory committees bring to bear on administration is usually, however, of a more specialized nature. For instance, many advisory committees are established to associate those people for whose benefit a service is rendered with the executive department responsible for administering that service. This point of contact makes for improved administration. The departments, by thus absorbing the criticism of the recipient of a particular service, are able more adequately to meet the needs of its users.[6]

No less important as an aid to administration is the third type of opinion, which results from the functional representation of economic groups on several advisory committees. Particularly since the economic depression, the government has made great inroads into private enterprise by means of regulation. This invasion of a domain formerly considered somewhat sacrosanct has been softened by the provision of advisory committees to present the points of view of the interests affected. For example, since the World War, the government has been nursing the dyestuffs industry by preventing the importation of competing goods. This was not done, however, until the Dyestuffs Licensing Advisory Committee so advised.[7] The committee has among its membership most of the interests which are affected: "three persons concerned in the manufacture of such goods, together with persons representing the textile industry, the heavy chemical industry, chemical science, and any government department which appears to the Board [of Trade] to be specially concerned with such development." It is significant that there are "three other persons not directly concerned" also on the committee. These serve to protect the general public interest—in this case, the average retail consumer of dyestuffs. In this committee is evident, too, one of the advantages already mentioned, namely, that advisory councils are a means to protect departments from public attack on the ground that they act without regard for the public interest. With the interests affected constantly advising the minister, the latter is less likely to veer from the means the advisers consider desirable.

The second great purpose for which advisory committees have been created is to provide for a devolution of administration. The central government departments, finding the committees of such merit, have seen

[6] The Transport Advisory Council (*23 and 24 Geo. 5, c. 53*) serves as an example. The Council gives advice and assistance to the Minister of Transport in relation to the means and facilities of transport. The composition of the advisory council reflects precisely the group of people "for whose benefit the service is rendered," i.e., local authorities, users of mechanically propelled vehicles, users of horse drawn vehicles, pedestrians, pedal cyclists, representatives of railways, canals, coastwise shipping, and harbors and docks; also labor and trading interests, and agriculture. Each of these groups is enabled through the medium of the advisory council to bring its special opinion on services like roads, railways, and canals to bear on the Ministry of Transport which administers them.

[7] *10 and 11 Geo. 5, c. 77.*

no reason for confining them to Whitehall. There has been a widespread movement to make use of the services of these bodies to adapt a service more effectively to suit the peculiar circumstances of a locality.[8] Where administration directly affects the daily lives of people, these committees are able, therefore, to be particularly valuable. For example, the Unemployment Act of 1934 provides: "For the purpose of securing the advice and assistance of persons having local knowledge and experience in matters affecting the functions of the [Unemployment Assistance] Board . . . the Board shall arrange for the establishment of advisory committees throughout Great Britain to act for such areas as the Board thinks fit."[9]

Regional department officials have encouraged the creation of these local advisory committees for somewhat selfish reasons. The reasons are selfish, however, only in the degree to which the officials wish to bring the best service possible to their areas. They find themselves in a very much stronger position in their conflicts with headquarters if they are backed by a body of local sentiment, which the minister realizes it will be politically expedient to please.[10]

A third major purpose of the advisory committee is to correlate the efforts of different departments performing a phase of the same service. The British have at times created overlapping administrative agencies which necessitate subsequent coördination. The advisory committee has been a handy tool in working out this much-needed integration. For instance, the Merchandise Marks Act of 1926 provides that the advisory committee to put trademarks on agricultural produce should be appointed by the Minister of Agriculture and Fisheries, the Secretary of State for the Home Department, and the Secretary of State for Scotland.[11] The advisory committee as a device for coördinating interdepartmental relations has not as yet reached full development, but it provides an obvious solution which will not long continue to be overlooked.

It is, however, in its fourth purpose that the advisory committee exerts its greatest influence; that is, in the field of delegated legislation. In 1921, when comparing the amount of delegated legislation with the statutes passed by Parliament, Mr. C. T. Carr made the apt remark that "in mere bulk the child now dwarfs the parent."[12] Comparisons in recent years em-

[8] For an extended list of possible uses of local advisory committees, see Laski, *Grammar of Politics*, p. 384.

[9] Other advisory bodies which illustrate this devolution are: County Agricultural Wages Committee, *14 and 15 Geo. 5, c. 37, s. 1;* Local Unemployment Insurance Committees, *25 Geo. 5, c. 8, s. 67;* Local Scottish Housing Advisory Boards, *25 and 26 Geo. 5, c. 41, s. 22;* and Local Advisory Committees for Physical Training and Recreation, *1 Ed. 8 and 1 Geo. 6, c. 46.*

[10] For a discussion of advisory committees in the field of social services, see T. S. Simey, *Principles of Social Administration* (London, 1937), pp. 83–87.

[11] *16 and 17 Geo. 5, c. 53.* [12] *Delegated Legislation* (Cambridge, 1921), pp. 2–3.

phasize this same preponderance. In 1936, there were 608 statutory rules and orders, contained in two volumes, whereas the 46 public general acts filled only one volume. The same preponderance of statutory rules and orders was to be noted in 1937. In that year, 633 statutory rules and orders were registered, making a bulky volume of 2,420 pages. By comparison, the 70 public general acts made a relatively lean volume of 1,039 pages.

Theoretically, delegated legislation is formulated by the department; actually, advisory committees often play a major part in determining its content; for in certain cases departments are required by law to consult them. Upon consultation, their action takes two forms: acting positively, they may actually suggest measures; and negatively, they protect the public against the bureaucratic abuse of delegated powers. An example of a committee's positive action is to be found in the mandate given the Poisons Board in 1933: "The Secretary of State may, after consultation with or on the recommendation of the Poisons Board, make rules with respect to any of the following matters: the manufacture, . . . sale, . . . transport, . . . storage and labeling of poisons."[13] The Poisons Board, therefore, not only may pass on the legislation submitted to it, but may initiate needed legislation through its power of recommendation to the Secretary of State. The Cotton Spindles Advisory Committee is an example of an advisory body acting in a negative manner.[14] Composed as it is of delegates of the various interests in the cotton industry, it is on constant watch lest disadvantageous rules be made.

The range of function of advisory committees is theoretically confined to mere influence upon legislation, but it is only a matter of time before they inevitably gather to themselves actual rule-making power.[15] Even today, the distinction between influence and actual rule-making approximates a legal fiction. There are several committees whose constituent statutes presage the fact that they will actually accrete the power to themselves.

The Board of Trade furnishes an example in the Merchandise Marks Committee, which is charged with making inquiries relating to manufactured goods.[16] The act provides that "if on inquiry . . . it appears to be desirable that any imported goods should bear an indication of origin at the time of importation," the committee shall report that fact to the Board of Trade. The Board then issues an order, unless "it considers such action undesirable . . . having due regard to all the circumstances of the case. . . . "[17] It is apparent from this provision that the Board of Trade exercises only a veto power on the suggested orders which the advisory committee submits, and that therefore any order which actually is issued is the word of the advisory body. Acceptance by the Board of Trade of a

[13] *23 and 24 Geo. 5, c. 25.* [14] *26 Geo. 5 and 1 Edw. 8, c. 21.*
[15] Laski, *op. cit.*, p. 387. [16] *16 and 17 Geo. 5, c. 53.* [17] *Ibid., s. 2, ss. (5).*

large number of the committee's proposals is evidenced by the seven Merchandise Marks (Imported Goods) Orders issued in as many months of 1935.[18]

Any discussion of the influence of advisory committees on legislation would be incomplete without attention to the Rates Advisory Committee under the Ministry of Transport.[19] It is incumbent upon the minister, "before directing any revision of any rates, . . . to refer the matter to the committee for their advice, and they shall report thereon to him." The committee's reports must not simply offer advice, but must be accompanied by information as to the best method of carrying out its advice. The act itself stipulates that "where such revision is for the purpose of an increase in net revenue . . . the committee shall also advise as to the best methods of obtaining such increase from the different classes of traffic, having due regard to existing contracts and the fairness and adequacy of the methods proposed to be adopted."[20]

Parliament itself realized the weight which the reports of the Rates Advisory Committee would carry. The Minister of Transport, Sir. E. Geddes, explained the unique importance of this committee in debate. "It is more than an advisory committee; it is a committee which receives . . . a mandate from the government so to apportion the increase of railway rates . . . as to do the least possible harm in the country to trade and to the community."[21]

Of all the advisory committees influencing legislation, the Import Duties Advisory Committee furnishes the best known and most obvious example. In 1932, it was given the power of recommending to the Treasury the following modifications of a general tariff of 10 per cent: to raise or lower duties on goods or to exempt goods of any class or description from the general ad valorem duty.[22] The parliamentary debates on the Import Duties Advisory Committee show the preponderant rôle which this body plays in legislation. Mr. Chamberlain, then Chancellor of the Exchequer, explained: "Complete freedom is left to the committee to make whatever recommendations they think are in the best interests of industry as a whole. On receipt of a recommendation from this committee, the Treasury will be empowered to make orders directing that a duty be imposed on an article specified at a rate not exceeding the rate which has been recommended by the committee. . . . I should add that all orders imposed by the Treasury imposing duties will be subject to confirmation by a resolution of this House. . . ."[23]

It was realized that the Import Duties Advisory Committee would

[18] *Statutory Rules and Orders, 1935*, Nos. 148, 149, 305, 519, 682, and 802.
[19] *9 and 10 Geo. 5, c. 50.* [20] *Ibid., s. 21, ss. (2)*
[21] *Parl. Deb.*, Vol. 119 (1919), p. 1575. [22] *22 and 23 Geo. 5, c. 8.*
[23] *Parl. Deb.*, Vol. 261 (1931–32), p. 291 ff.

itself very soon assume the actual rule-making power. Sir H. Croft warned: "The Government are divesting themselves of responsibility in that respect, and placing it on the shoulders of a committee."[24] He pointed out further that although the orders making the changes in duties are nominally to be made by the Treasury, actually there is no pretense that the Treasury is responsible for their content.[25]

In its power to confirm all orders by a resolution before they become effective, Parliament has an apparent safeguard. Whether it is satisfactory is much debated. However, a comparison of the number of orders confirmed with the number submitted reveals that Parliament seldom rejects the Committee's advice. Actual count reveals that in 1935 a total of 63 recommendations were made by the advisory committee and the same number of orders confirmed. The next year, 52 recommendations were issued as orders, and all received the tacit approval of Parliament. Of the more than 40 recommendations made in 1937, only one did not become an order.[26]

Advisory committees must be consulted by ministers not only with regard to rule-making, but also with respect to the very important power of granting parliamentary funds.[27] A provision necessitating the approval of an advisory committee prior to the allocation of money is made in the Housing (Rural Authorities) Act of 1931, which states: "The Minister of Health may . . . on recommendation of an advisory committee, undertake to make special contributions, on such conditions as he may with like approval determine, towards the expenses to be incurred by such rural district councils . . . in providing houses in the agricultural parishes of their district for agricultural workers and persons of substantially the same economic condition."[28] The right to allocate public monies is an important index of power in any government. This long-fought-for power of the purse is supposedly retained by Parliament, but the actual allocation of funds in a number of instances is made by the advisory committee.

There is limited but unmistakable evidence that advisory committees are also a real influence upon legislation passed by the time-honored method of king-in-Parliament. The influence of advisory committees in this larger sphere may be even greater than the ascertainable evidence would indicate. The fact that not all committee reports are published,

[24] *Ibid.*, p. 718.

[25] For a hostile view of the Import Duties Advisory Committee, see *Parl. Deb.*, Vol. 261 (1931–32), p. 303.

[26] These statistics were compiled from the indexes to the *Government Publications* issued by His Majesty's Stationery Office for the years listed.

[27] The Advisory Committee on Export Guarantees, *1 Edw. 8 and 1 Geo. 6, c. 61*, and the Tramp Shipping Subsidy Advisory Committee, *21 and 22 Geo. 5, c. 39*, are examples of committees which must be consulted by the minister before large subsidies can be disbursed.

[28] *21 and 22 Geo. 5, c. 39.*

and that often several years elapse between the time when a recommendation is made and when a law is enacted on the same subject, makes it difficult to know exactly how great a factor a given advisory group has been in the composite of forces giving impetus to the legislation.

Notwithstanding such uncertainties, the influence of the advisory committee upon the Import Regulation Act of 1934 is quite clear.[29] The report of the Dyestuffs Industry Development Committee[30] was the first evidence promoting the passage of this Import Regulation Act. Upon receiving the report, the Chancellor of the Exchequer (then Neville Chamberlain) referred the question to the Import Duties Advisory Committee for advice. Having examined representative witnesses, that body recommended "that the general policy embodied in the Dyestuffs Act, 1920, be continued. We do not recommend any time limit, as it appears to us that the question whether and when the system should be terminated should be left entirely open."[31] This recommendation, coupled with that of the Dyestuffs Development Committee, resulted in the passage of the Dyestuffs (Import Regulation) Act of 1934.

Another excellent illustration of the influence of advisory committees on the statutes passed by Parliament is furnished by the Education Act of 1936.[32] The "Hadow Report" made by the Education Consultative Committee was the motivating force behind that measure. The parliamentary debates on the act show a close adherence to the report and a determination to incorporate its features into the bill. A comparison of the report and the act shows that the determination was realized.

As indicated above, another of the advantages accompanying the use of advisory committees is that of enabling government to secure the services of competent men who otherwise might not place their capabilities at the disposal of the state. Men who are unwilling to stand for office, and men who are not interested in public life, but are vitally interested in some single aspect of public service, are, through the advisory committees, able to take an active, responsible, and useful part in their government.[33]

The personnel of advisory committees is drawn from three distinct groups: (1) the governmental official or civil servant; (2) the lay expert whose vocational proficiency renders him especially qualified to give advice; and (3) the layman who has had no previous experience to give him special competence, but who has a bowing acquaintance with the problem in hand. These three groups fall into various combinations on the different advisory committees, depending on the subject with which the committee deals.

For instance, only experts serve on an advisory committee carrying the

[29] *24 and 25 Geo. 5, c. 6.* [30] *10 and 11 Geo. 5, c. 77.*
[31] *Parl. Papers, Cmd. 4411,* Vol. XVI, 1932–33.
[32] *26 Geo. 5 and 1 Edw. 8, c. 41.* [33] Laski, *op. cit.,* p. 384.

preponderant influence of the Import Duties Advisory Committee. They are experts whose vocational proficency fits them, but who couple with this a broad general knowledge with which to temper their judgments. For example, Sir Sidney Chapman came to his position on the committee from an already distinguished career in public service, having served as the permanent secretary to the Board of Trade and as chief economic adviser to the government in the trying years 1927 to 1932. Because of the character of the work of this committee, it is limited in size to from three to five members.

Closely akin to this first example is the personnel of those advisory committees which is entirely expert, but is drawn both from the government's own service and from professionals in private enterprise. The Aëronautical Research Committee shows this tendency.[34] There are on this committee 10 lay experts and six government officials.[35]

When a committee is to advise on some phase of government intervention in business, it is composed of representatives of economic groups. There are also included laymen with no particular knowledge of the industry, but with an active interest in this phase of government. On the Cinematograph Films Council, for instance, there are 11 laymen out of a total of 22 members.[36] These 11 are independent persons with no financial interest in the industry. Of the 10 specialists in the field, two are representatives of makers of British film, two are representatives of renters, four are representatives of exhibitors, and two represent persons employed by makers of British film. Through a scattering of interests like this, all who will be affected by the act have a medium for expressing themselves.

Many committees are composed of laymen to advise very generally on the administration of a function. The personnel is larger than that of the more technical committees, and thereby a cross-section of opinion becomes available to the department concerning its service. The Post Office Advisory Council is an example; the many local advisory committees function in this way in the local sphere.

The advisory committee is characterized by informality in the conduct of its business. The most common procedure is that under which the

[34] *Parl. Papers, Cmd. 554*, Vol. XI, 1920.

[35] Of the 10 lay experts on the Aëronautical Research Committee, two represent the aircraft industry, two the Imperial College, and one the Royal Aëronautical Society, and the other five members are men of outstanding scientific attainment in this field. Of the six official members, four are representatives of departments responsible for naval and military aëronautics and regulation of civil aërial transport; and two are from the Department of Scientific and Industrial Research. This same type of expert personnel is found in such technical bodies as the Poisons Board, *23 and 24 Geo. 5, c. 25*, and the Therapeutic Substances Advisory Committee, *14 and 15 Geo. 5, c. 60.*

[36] *1 and 2 Geo. 6, c. 17, s. 41.*

committee itself meets and carefully discusses issues which arise. It taps various sources of information before coming to any conclusions. For instance, other informed people are often invited to the meetings and interviewed. To extend the number of available witnesses, questionnaires are prepared and submitted to specialists who cannot be interviewed personally. As a part of this procedure, questions are sometimes referred to special subcommittees for intensive study. This procedure is typical of that followed by committees whose function is limited to mere advice on administration. The following statement from a report of the Education Consultative Committee illustrates the use of this first general method of procedure. "We have sat on 39 days and examined 72 witnesses. Subcommittees considering particular sections of the report have sat on six days. We got oral evidence from doctors, psychologists, headmasters and mistresses, inspectors, representatives of examining bodies, bankers, business men, and employers. We also received written memoranda on the questions."[37]

Because of the greater influence that their advice carries, those advisory committees which must pass on delegated legislation use a more formal type of procedure, namely, the public hearing. To facilitate the conduct of such hearings, the committees follow certain statutory requirements. For instance, they must publish adequate notice of hearings in the London, Edinburgh, and Belfast *Gazettes;* they have power to take evidence on oath; they must hear all petitioners unless, in their discretion, they think it unnecessary; they have power, in effect, to subpœna witnesses. It is thus apparent that Parliament has not delegated power without also fortifying the committee with auxiliary aids for exercising it.

Those committees which must advise on institutional management base their opinions on information gathered through the third type of procedure, i.e., inspection tours. The Advisory Committee on Grants to Universities and Colleges[38] and the Scottish Criminal Lunatic Asylum Advisory Committee[39] visit the respective institutions.

From a study of documents creating them, and of their own often illuminating reports, one may conclude that advisory committees already fill a very definite place in both administration and legislation; and if present trends continue, a rôle of constantly increasing importance may be forecast for them.

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[37] *Differentiation of Curricula between Sexes in Secondary Schools* (His Majesty's Stationery Office, 1923).

[38] Minute of the Board of Education, June 17, 1911.

[39] *25 and 26 Geo. 5, c. 32.*

British By-Elections: What Do They Prove? "Returns from three more by-elections make it abundantly clear that the British people are not behind Prime Minister Chamberlain in his peace-at-any-price policies." Thus the *Nation*[1] summed up the results of the first five post-Munich by-elections. The *London Times*,[2] however, in an editorial on the ninth of the same series, thought "the result of the East Norfolk by-election should hearten and stiffen the Government."

The assumption underlying these characteristic judgments has become axiomatic. It is that British by-elections constitute a reliable political barometer. Accepting this assumption, political analysts and commentators anxiously scan the outcome of successive contests and confidently announce the current popular standing of the Government.

Certainly in our preoccupation with the maelstrom of European affairs, we do urgently need reliable criteria for assessing the true significance of day-to-day events. But the time is long over-due when we should question whether this working hypothesis, among the many we so placidly rely upon, is valid. For unsound axioms promote confusion, not understanding.

Surely a clue should emerge from the flurry of by-elections, the "little general election," that followed Munich. In a brief 34 days, there were seven. This is rare. Since the World War, there have been, on the average, less than 17 in a full year. No more than a dozen times in these 20 years, say once every two years, have as many as six been concentrated into so short a period.

Moreover, it is even rarer when on top of the concentration itself there is an ideally controversial and well-defined issue like Mr. Chamberlain's foreign policy on which the fight may be centered. Here, then, is the compound rarity of a by-election concentration coinciding with one of the gravest issues in British politics in a generation. A full 1.6 per cent of the British electorate had opportunity to render an official, responsible, timely verdict—a sizable on-the-spot referendum. Surely all this adds up to a fair test of the weathervane-value of by-elections.

Taking the contests in turn, the first was on October 28—28 days after Munich—in the city of Oxford. Here the normal electorate has been safely Conservative since 1900. In 1922 and 1923 alone, when the Liberal candidate, Mr. Frank Gray, personally canvassed the laboring population and, apparently for the first time, attracted them to the polls in decisive numbers, has any non-Conservative won. And subsequently this new-found vote was largely neutralized by its dissipation between Liberals and Labor. Since this Liberal *coup*, the percentage of the electorate voting has declined progressively, primarily because the constituency is so hopelessly Conservative.

[1] November 26, 1938. [2] January 28, 1939.

The by-election appeared to stimulate the electorate slightly. But visualize the setting. Here was the first by-election since Munich. It was a straight fight, Labor and Liberals offering no candidate who might weaken the Independent-Progressives' challenge to the Government. It was a contest between the famous Mr. A. D. Lindsay, former Master of Balliol, and the Hon. Quinton McGarel Hogg, the hand-picked, politically inexperienced, 31-year-old son and heir of the recently retired Conservative cabinet minister, Lord Hailsham. Yet even under these clarifying and provocative circumstances, the electorate did not come out in numbers formerly considered as simply normal.

The Conservatives turned out loyally in somewhat greater force. Yet this slightly increased Conservative polling need not be interpreted—indeed it seems misleading to do so—as essentially a spontaneous endorsement of Mr. Chamberlain's policy. Rather it was an habitual defense of the Conservative candidate. For at least 50 years, this has been the standard reaction *whenever* there was cause to suspect that the Conservative candidate would be seriously challenged. It is not too much to say that this would have been the case had Mr. Chamberlain's policy been its own opposite, simply because it was the official Conservative policy.

The second test was on November 8 in the Dartford division of Kent, an intensively industrialized area which is essentially a part of London. Out of a greatly and recently enlarged electorate, the proportion actually voting was substantially the lowest since 1900. Out of 10 contests in the past 30 years, the Conservatives have won only three, in 1924, 1931, and 1935. Leaving these victories unexplained, the electoral record clearly shows the constituency to be non-Conservative under most circumstances. The Labor by-election victory strongly suggests a simple re-emergence of this normal attitude, rather than any kind of verdict, as such, on Mr. Chamberlain's policy. The main point here is that these constituents normally disapprove of any Conservative policy. Hence it is unwise to attach unusual significance to their supporting the opponent of the current Conservative policy.

The third test was on November 16 in Walsall, a manufacturing town just north of Birmingham. Omitting from comparison the nationally low poll of 1918, the proportion of the electorate voting was decisively the lowest since 1900. The electoral record is complicated. In the period 1900-22, Liberals sat the first 10 years and Conservatives the last 13, always with absolute majorities. In the next seven years, they alternated again, but with pluralities only, caused by serious competition from Labor, which actually gained a plurality victory in 1929. Alarmed, Conservatives and Liberals effectively coalesced, and since 1931 the Liberal-Nationals have been in, largely because the Conservatives, offering no candidate, have supported the Liberal-National candidate *en masse*. In the by-election, neither totals nor proportions show appreciable variation from

past performances. Retention of the seat by the Government was not surprising. Its loss would have required a miracle.

The fourth test was on November 17 in the Doncaster division of the West Riding of Yorkshire. Here the proportion of the electorate voting was, with one exception besides 1918, quite the lowest since 1900, during which time the electorate has more than quadrupled. Doncaster is a Labor stronghold. Only once since 1906, in the disillusionment that followed the 1929–31 Labor Government and in the midst of economic crisis, have the Conservatives won, and this was with the assistance of a temporarily *National* Liberal minority. In the by-election, Labor polled its habitual proportion of the electorate, neither more nor less. But the Conservatives did not come out in even normal force. This accounts for what would appear, viewed independently, as an impressive rise in Labor's proportion of the votes cast.

The fifth test was on November 18 in the Bridgewater division of Somersetshire. The proportion of the electorate voting was the very high 80-odd per cent that has been normal up to the listless last two general elections. Excepting a 17-vote-majority Liberal victory in 1906, and a more substantial one in 1923, the Conservatives have held this seat for over 50 years, and with absolute majorities during all but three years. On the surface, this appears a solidly Conservative picture; hence the temptation to conclude that the Conservative by-election defeat was a direct repudiation of Mr. Chamberlain's policy. But this is far too simple.

Bridgewater is within that southwest Devon-Cornwall-Somerset corner of England where the old Liberalism still smoulders. There is a large minority of old-school Liberals, but only once since 1910 has it been able to return its own candidate. Labor, rising largely since the World War and drawing off many of the former Liberals, forms a minority equal normally to half the Liberals. Together, they surely outnumber the Conservatives. But the Liberals have been undecided. Unable to conquer alone, they have felt really at one with neither Conservatives nor Labor. In a situation like 1929, many of them supported Labor even in preference to their own candidate. In a situation like 1931, offering no candidate but dissatisfied with the record of the minority Labor Government, the great bulk either supported the Conservative candidate or abstained. After four years of "national effort" government, they returned with their own candidate to split the non-Conservative vote in a very poor poll. Three years more of it, and their traditional attitudes could re-emerge under ideal conditions.

Enter Mr. Vernon Bartlett, familiar to every wireless listener in Britain as an able and independent commentator on foreign affairs. He said he would take orders from no party. To Liberals he was not a Laborite, and he seemed rather like a Liberal. To Labor, he was not a Liberal, and his views coincided remarkably with its own. Hitherto, neither group could

win independently, and there was no mutually acceptable basis for co-operation. Neither had ever really approved of the Conservatives. In Mr. Bartlett they had a candidate whom both could support wholeheartedly. So they went out *en masse* to put him in.

It appears certain that this is what happened. For the Conservatives polled their normal proportion of the electorate. They simply got no Liberal support. By joining forces, the non-Conservatives could have won any contest since the World War. But they had always lacked the chief prerequisite, a really non-partisan candidate. In the by-election, they came out with only their normal proportion of the electorate. But, being undivided, they could not lose.

The sixth contest was on November 24 in the West Lewisham division of London. Characterized as a middle-class commuters' district, it has been overwhelmingly Conservative for over 50 years. From 1903 to the by-election, the seat was held uninterruptedly for the Conservatives by only two individuals. Until 1931, Labor and Liberals split their strength. Since then, most of the Liberals, being of a *National* view, have given the Conservatives unneeded support. The proportion of the electorate voting was notably the lowest in 15 years, yet the Conservatives won by about three to two. The *New York Times* correspondent reported[3] that the Conservative voters were apathetic in part because for the first time in a generation their candidate came from outside the district. Surely such a scheme of values on the part of the voters casts some doubt on the stimulating force and the paramount importance of the "Chamberlain policy" issue. Labor's proportion of the electorate voting rose slightly. This it seems was due largely to the activity of an orthodox Liberal minority. These latter appeared at the polls for the first time since 1929, the last time they offered a candidate, to say in effect that they still did not like anything about the Conservative party. But even with this gratuitous assistance Labor could poll only a quarter of the electorate.

The seventh contest was on November 30 in the Fylde division of Lancashire. This has been an overwhelmingly secure Conservative seat during the present century, with five of the 13 contests since 1900 going uncontested. The present Lord Mount Temple held the seat from 1906 to 1922. The late Lord Stanley, son and heir of Lord Derby, held it from 1922 until his death last autumn, being returned unopposed in three out of seven contests. Since 1900, the maximum non-Conservative poll has been no more than a third of the electorate, and normally less than a quarter. A third of the votes actually cast seems to be their upper limit. It is recognized generally that Lord Derby nominates the Conservative candidate almost single-handed.

Dr. Mabel Tylcote, the Labor candidate, was said to be one of the best non-Conservative candidates offered to the constituency in years. Even

[3] November 25, 1938.

so, she managed to poll only a fifth of the electorate, to be defeated by about seven to three. A large section of the Conservatives did not go to the polls. And even allowing for the low poll, Labor's proportion of votes cast was below what past performance indicates should have been expected. In short, neither side went to the polls in even normal numbers. This does not suggest anxiety to voice opinions on Mr. Chamberlain's policy. The fact is that the seat is so hopelessly Conservative that Labor sees no use in voting, while the Conservatives may confidently be indifferent.

Following these "seven contests in 34 days," there were two others which merit equal consideration. First, on December 21, there was the widely publicized contest of the Duchess of Atholl in the Kinross and Western division of Perthshire, Scotland. This constituency, being some 50 miles by 40, is one of the largest in the kingdom, and has fewer than 30 people to the square mile. Except for one Liberal sitting from 1906 to 1910, and another, himself a coalition candidate in one of his two victories, sitting from 1918 to 1923, this seat has been held by the Conservatives for over 50 years.

In the by-election, the personal element was great, the issue of party regularity was weighty, the weather may possibly have been decisive, and the rôle played by Mr. Chamberlain's policy appears most minor. What was it that really happened?

The Duchess had been returned for 15 years as a Conservative. Her husband, as the Marquess of Tullibardine, had held the seat from 1910 to 1917 as a Conservative. She has the distinction of being the only woman ever to hold a post in a Conservative ministry. But when she disagreed with Mr. Chamberlain's foreign policy, refused the party whip, crossed the floor to sit with the Opposition, and then voluntarily resigned her seat to stand for reëlection, the local Conservative association simply adopted an orthodox candidate and forced her to stand as an Independent-Progressive.

Many Conservatives apparently remained out of personal loyalty with the Duchess, who is, it must never be lost sight of, still a Conservative. But she lost by 1,313 votes in a poll of 23,303. For the vast bulk simply supported, as usual, the *official* Conservative candidate, it being virtually immaterial who he was. The Duchess was depending partly on the Liberals, whose candidate had withdrawn, and partly on Labor, who had no candidate. Many such did support her. But a large proportion, either prevented by the weather or unwilling to vote for a Conservative no matter what her attitude toward the Government, abstained. The *Manchester Guardian*[4] thought that the harsh frosts and heavy snowfalls of the polling day contributed materially to the defeat of the Duchess, since the official Conservatives were better organized (had more cars,

[4] December 30, 1938.

etc.) to get their supporters to the polls.[5] The proportion of the electorate voting, again excepting 1918 and 1923, was impressively the lowest since 1900. It may have significance that women predominate in the electorate by a ratio of eleven to nine, which might make inclement weather and the dispersion of the population still more decisive as factors.

Finally, the ninth contest was on January 26 in the Eastern division of Norfolk. It is here, according to the *London Times*, that the results "should hearten and stiffen the Government." For this has the added distinction of being the first by-election after the visit of Mr. Chamberlain and Lord Halifax to Rome. This agricultural constituency returned a Liberal, Sir. R. J. Price, with solid majorities in high polls, from 1892 until his retirement in 1918. From then until 1931, due to Labor accessions from Liberal ranks, the Conservatives won three close plurality victories out of five contests. Since 1931, a Liberal-National, clearly supported *en masse* by the Conservatives, who have offered no candidate since 1929, has held the seat.

Early in the campaigning, there was an Independent Conservative-Agriculturalist candidate who, while supporting Mr. Chamberlain's policy generally, was pressing for greater agricultural reform. But by means of a personal letter from Mr. Chamberlain he was persuaded not to split the Government strength and to withdraw in favor of the official Government candidate, a Liberal-National. This made it a straight fight: the Government vs. Labor. The proportion of the electorate voting, again excepting 1918, was notably the lowest since 1900. Labor brought to the polls what seems to be its maximum, about a fifth of the electorate. Almost half of the electorate abstained. And still the Government won by over three to two.

Quite possibly, many farmers were nettled by the official pressure used to eliminate their personal candidate. Perhaps the Government candidate, said to be a late choice and a stranger to the constituency, was not able to arouse much personal enthusiasm. But no matter how one assesses the many personal factors or accounts for the abstentions, it is difficult to conceive of this uninterested, passive response as heartening. Although, in a negative way, it may be consoling to know that while people will not make the effort necessary to express approval and encouragement, neither are they supporting the opposition. Of a simple retention of the seat by the Government, there was never any doubt from the beginning.

[5] One cannot resist speculating in this case on the influence of the corrupt practices provision which, while permitting the volunteering of conveyances to take voters to the polls, prohibits their hire for the same purpose. For the fortune of the Duke, added to his intense ire over the behavior of the local Conservative association, could easily have resulted in enough conveyances to get the supporters of the Duchess to the polls.

These, then, are the immediate post-Munich by-elections. What do they prove? First of all, the basic determinant of their outcome was obviously where they were held. To illustrate by *reductio ad absurdum*, assume that four by-elections had been held in, say, the two divisions of the City of London, the Waterloo division of Lancashire, and the Bury St. Edmunds division of West Suffolk. Mr. Chamberlain's policy, beyond the remotest shadow of a doubt, would have been "overwhelmingly endorsed" by four Conservative victories, probably all unopposed. But hold the four in, say, the West division of Rhondda, the Abertillery and Bedwellty divisions of Monmouthshire, and Newcastle-under-Lyme, and with equal certainty Mr. Chamberlain's policy would be "overwhelmingly condemned" by four Socialist victories, also probably all unopposed. But how could one possibly maintain that either of these results showed anything whatever about "the British people" and their opinion on policy? All of the actual by-election constituencies had, if not uniformly the same in degree, the same kind of strongly partisan character as those in the hypothetical cases. The main point is that, with conceivable exception in the case of Mr. Bartlett, and of the Duchess on a hypothetically fine polling day, it is unthinkable that any of the nine contests could have turned out differently. Hence it is impossible to attach to the simple retention or loss of seats, on either side, any significance as a verdict on policy.

Secondly, results depended upon—in addition to the basic determinant—a multiplicity of miscellaneous factors: the traditional party loyalties, attitudes, and voting habits of the electorates; the proportion of women voters; the length of time the Conservatives had been in office; the weather; the personalities involved; the corrupt practices provisions; and so on. As a determinative factor, Mr. Chamberlain's policy was lost sight of, was snowed-under by the collective importance of all these other factors. And except in the case of the Duchess, their specific incidence and relative weight depended exclusively on the sheer accident that death or succession necessitated by-elections in these specific constituencies. So in this added sense the wins and losses of the Government, with the resulting "approval" or "disapproval" by the voters, depended directly upon which, out of 615 possible constituencies, it was in which fate determined that the "referendum" should be held.

Thirdly, in seven of the nine constituencies the proportion of the electorate voting was, with rare exceptions, under the understandably low poll of 1918, impressively the lowest in the present century, while in the remaining two the normal proportion was no more than maintained. More specifically, some five to ten per cent of the electorate who normally vote regularly did not vote in the by-elections. In individual cases, it was much higher; and this is, of course, in addition to the 30-odd per cent of the electorate who rarely if ever vote.

It is surely begging the question to say that this is of no significance because in by-elections the poll is always low. For that is the whole point. One cannot grant that the electorate is habitually apathetic about by-elections and simultaneously maintain that by-election results constitute a full and decisive expression of public opinion. The recent widespread abstentions on the part of regular voters suggest at least an insufficient anxiety to voice opinions on Mr. Chamberlain's policy. Contributory reasons for abstentions may be both numerous and understandable. But no matter what the reasons, the vital fact remains that these people did not give an opinion one way or the other.

In view of all this, it seems patent that the British by-election has been over-rated as a political barometer. It would go too far to say that under no circumstances will a by-election mirror a popular reaction. It is sufficient to say that as an instrument for recording the ordinary popular reactions to public policy, the by-election is unreliable, indeed useless, in the ordinary way. This proves to be so for the simple and conclusive reason that the public policy to be judged is one of the least weighty of the factors determining by-election results. Finally, then, in meeting the question of whether by-elections reveal the state of political winds, our conclusion goes quite beyond saying that they do not accurately indicate either the speed of the winds or their course. It is extremely doubtful whether, by simply observing by-elections themselves, one could discover even that there was a political wind to be gauged. If this be the conclusion from a closely packed series fought on a single issue, surely little faith may be put in the showings of occasional contests. And under such circumstances as the present party truce, to obtain while hostilities abroad continue, by-election results are of course almost meaningless.

In conclusion, on the case involved here, the public policy in point was Munich. From the "little general election," partisans of both sides were able, with a per cent here and a per cent there, carried out to four places, to prove to their own satisfaction that there was a slight upturn or downturn in the Government's popularity. But if this analysis be at all on the right track, it was surely wishful thinking or an attempt at delusion to maintain that the results of the post-Munich series of by-elections constituted a mandate from the British people either to continue or to reverse the then current policy. For even in this rare concentration of by-elections they did not render judgment on Munich.

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Safeguarding American Neutrality. Legislative safeguards for the preservation of the neutrality of the United States enacted by Congress in the fall of 1939[1] immediately took on added significance as the sea warfare of the belligerent powers in Europe increased in intensity. The many losses of neutral as well as belligerent vessels due to unanchored mines, submarine attacks, and other activity confirmed the prevalent opinion in the United States that the withdrawal of American persons, vessels, aircraft, and cargoes from the area of combat in the waters of northern and western Europe was a wise move. The seizure by British warships of cargoes from German ports or of German origin or ownership, although carried on neutral vessels, added to the dangers to which neutral shipping was exposed.

The embargo on the shipment of arms, ammunition, and implements of war to belligerents was repealed by Congress, but many other safeguards were retained and added to by the neutrality law of 1939. The proclamations[2] issued by the President upon his approval on November 4 of the neutrality law brought into effect the safeguards of the law placing restrictions upon the sale and shipment of American products to the countries at war and prohibiting travel by American citizens, vessels, and aircraft in the dangerous waters of Europe.

The principal protections to American neutrality contained in the neutrality law of 1939 may be outlined as follows:

(1) American citizens, vessels, and aircraft are prohibited from proceeding in the area of combat around northern and western Europe, as defined in the proclamation issued by the President. This safeguard was enacted for the first time in the neutrality law of 1939.

(2) American vessels are prohibited from carrying goods to belligerent countries in Europe or in northern Africa or to the Atlantic coast of Canada. American vessels are also prohibited from carrying munitions to belligerent countries in other parts of the world. A carry prohibition limited to such articles as the President should enumerate, but applicable to all belligerent countries, was contained in the neutrality law of 1937.

(3) Materials may not be exported from the United States to any belligerent country in Europe or in northern Africa or to the Atlantic coast of Canada until after American ownership of such materials is ended. Munitions cannot be shipped to belligerent countries in other parts of

[1] Public Resolution No. 54, 76 Cong., 2 Sess. (1939).

The neutrality laws enacted during recent years may be found in 49 *Stat. at Large* 1081 (1935), 49 *ibid.* 1152 (1936), and 50 *ibid.* 121 (1937), *U.S.C.A.*, Vol. 22, secs. 245a–245i (Supp. 1938). For an analysis of these three laws, see James Simsarian, "American Neutrality," *National Lawyers' Guild Quarterly*, Vol. 2, pp. 193–204 (Oct., 1939).

[2] *Federal Register*, Vol. 4, pp. 4493 and 4495.

the world until after American title to such products is terminated. A similar transfer of title prohibition applicable to all goods and to all belligerent countries was enacted in 1937.

(4) American citizens are prohibited by statute from traveling on belligerent vessels, except in accordance with regulations issued by the Secretary of State. Such regulations, however, permit travel on belligerent vessels in any waters other than the north Atlantic Ocean and the Mediterranean Sea. Limitations on travel by Americans on belligerent vessels were first contained in the neutrality law of 1935.

(5) Persons in the United States are prohibited from making a loan or extending credit to belligerent governments; and this limitation also applies to the sale of munitions to persons in belligerent countries. But the sale of goods other than munitions to persons in belligerent countries on credit is not prohibited. A similar restriction applicable to loans and credit to belligerent governments was contained in the 1937 neutrality law.

(6) Persons in the United States are prohibited from soliciting or receiving contributions for belligerent governments, but the solicitation or collection of funds for medical aid or for food and clothing to relieve human suffering, when such solicitations and collections of funds are in accordance with regulations issued by the Secretary of State, is permitted.[3] A similar provision was contained in the 1937 neutrality law.

(7) Persons in the United States are prohibited from exporting arms, ammunition, and implements of war to any country, whether belligerent or neutral, without a license from the Secretary of State.[4] This restriction is designed only to afford the National Munitions Control Board (first created by the neutrality act of 1935 and continued since then) an accurate record of all such exports.

An examination of the amendments made and accepted on October 24, 1939, with practically no objections on the Senate floor, to the carry and transfer of title provisions of Section 2 of the neutrality bill reveals interesting contradictions to an argument made for the repeal of the munitions embargo. In seeking the repeal of the munitions embargo, many senators contended that no distinction should exist in neutrality legislation between munitions and other contraband products. But these same senators, in the last week of debate, agreed to amendments placing this very distinction between munitions and other contraband products in Section 2, and also in Section 7 on financial transactions, of the neutrality law of 1939.

[3] For regulations governing the solicitation and collection of contributions for use in belligerent countries, issued by the Secretary of State on Nov. 7, 1939, see *ibid.*, pp. 4510–4511.

[4] For regulations governing the international traffic in munitions, issued by the Secretary of State on Nov. 7, 1939, see *ibid.*, pp. 4512–4522 and 4523.

As reported to the Senate by the Committee on Foreign Relations,[5] Section 2 prohibited American vessels and aircraft from carrying passengers or goods to any belligerent country, except across the border to Canada, and at the same time prohibited the export of goods to all belligerent countries until after American ownership of such goods should have been terminated.[6]

First, senators from several northern border states sponsored an amendment excepting shipments other than munitions crossing the Canadian border from the transfer of title as well as the carry limitations of Section 2. This amendment was accepted.[7] Then shipments other than munitions by American vessels and aircraft to belligerent ports in the western hemisphere south of 35′ north latitude, which is slightly north of Bermuda, and to belligerent ports on the Pacific and Indian Oceans, including the China Sea, the Bay of Bengal, the Tasman Sea, and the Arabian Sea, were excepted by the Senate from the prohibitions of Section 2.[8] Under the sponsorship of New England senators, the carry and transfer of title provisions of Section 2 with regard to goods other than munitions were made inapplicable also to the Canadian ports of New Brunswick and Nova Scotia on the Bay of Fundy.[9] Finally, the Senate amended Section 2 to exempt shipments other than munitions to belligerent ports on the Atlantic Ocean south of 30′ north latitude, which is slightly north of the Canary Islands and does not include the Mediterranean Sea.[10] This amendment permitted American vessels to carry American-owned cargoes to belligerent ports in Africa south of the Canary Islands.

As amended, the carry and transfer of title restrictions on American vessels and shipments were made applicable simply to belligerent ports in Europe and in northern Africa and to the Atlantic coast of Canada, except with regard to the export of munitions. By such legislation, the north Atlantic Ocean is practically cleared of American vessels destined to belligerent ports. American vessels with American passengers and American-owned contraband cargoes, consisting of such products as steel, petroleum, and cotton, however, may still travel to belligerent ports in South Africa, in the western hemisphere south of Bermuda and in the Pacific, as well as across the Canadian border and to Canadian ports on the Bay of Fundy. Accordingly, with warships of belligerents operating in the south Atlantic near the African coast and the western hemisphere, American vessels carrying contraband of war to belligerent countries in such areas continue to be exposed to capture.

[5] *Cong. Rec.*, Vol. 85, pp. 127–129 (1939).

[6] Several exceptions to these sweeping prohibitions were contained in Section 2, but were of no relative significance.

[7] *Cong. Rec.*, Vol. 85, pp. 1281–1293 (1939). [8] *Ibid.*, pp. 1293–1300.

[9] *Ibid.*, pp. 1299–1300. [10] *Ibid.*, pp. 1302–1303.

American trade with neutral countries is limited only by the President's proclamation, issued on November 4, defining the combat area in the waters of northern and western Europe.[11] By this proclamation, American vessels and aircraft are prohibited from carrying passengers or goods to the neutral countries of Sweden, Norway (south of Bergen), the Netherlands, Denmark, Belgium, Ireland, Latvia, Lithuania, Estonia, and Finland (on the Baltic Sea). American vessels and aircraft, however, may continue to travel to the ports of such neutral European countries as Norway (north of Bergen), Finland and Russia (on the Arctic Ocean), Spain, Portugal, and to the ports of the neutral countries on the Mediterranean Sea and the Black Sea, as well as to the ports of other neutral countries in Africa, Asia, and the western hemisphere.

Unfortunately, no provision is made in the neutrality law of 1939 with regard to the transshipment of goods from the United States to Canada. Accordingly, goods other than munitions exported to Canada without a transfer of title from American ownership may be shipped to England on a belligerent or neutral vessel. If such important contraband products as steel, petroleum, tractors, and cotton are sent on such voyages, American-owned cargoes on their way from Canada to England would be subject to capture or destruction on the high seas.

American vessels carrying American-owned cargoes, including airplanes and munitions, to such neutral European countries as Spain, Italy, and Yugoslavia are subject to capture on the high seas by belligerents if such contraband cargoes are destined to an enemy country by way of the ports of these neutral countries. The failure of the neutrality law to prohibit the transshipment of such contraband products from neutral ports to which they are delivered from the United States to a belligerent country increases the likelihood of such transshipment and interference by belligerent vessels with such American trade. If conflicts with belligerents arise with regard to American vessels traveling to neutral ports in southern Europe, the President may find it necessary to extend the definition of the area of combat in Europe to include the waters of the Mediterranean.

The same dangers that confront American trade with neutral countries in southern Europe exist in the continuation of American trade with the ports of Norway north of Bergen and the ports of Finland and Russia on the Arctic Ocean. It is doubtful whether American seamen and vessels should be exposed to the dangers of such trade, particularly in view of recent extensions of sea warfare in the waters of Europe.

American citizens are prohibited by the President's proclamation of November 4 from traveling in the waters of the area of combat in northern and western Europe. In addition, Americans are prohibited from traveling

[11] *Federal Register*, Vol. 4, p. 4495.

on belligerent vessels in practically all of the north Atlantic and the Mediterranean.[12] Regulations issued by the Secretary of State, however, permit travel by Americans on belligerent vessels in all other waters, including the south Atlantic, although a number of warships are active in such waters and continue to be a source of danger to passengers on belligerent vessels. Unfortunately, no distinction is made in the regulations of the Secretary of State between armed and unarmed merchantmen of belligerents. Such a distinction is particularly advisable in view of the announcement issued by Germany of her intention to sink armed merchantmen of her enemies. A strong legal justification may be made by Germany with regard to her right to sink armed enemy merchantmen on sight, and the presence of Americans or other neutral persons on such vessels does not give them any immunity from attack.[13]

Many commendable safeguards for the preservation of the neutrality of the United States are contained in the law enacted by Congress in November of last year. But amendments made to the neutrality bill while it was pending in the Senate weakened the proposed carry and transfer of title provisions. A reconsideration of the munitions embargo might be desirable. Further limitations are essential to prohibit American citizens from traveling on belligerent vessels in any waters. The members of Congress should provide for a basic study of all phases of a firm neutrality policy.[14] Committees are set up by Congress to investigate many domestic issues. Why not establish a committee to examine and report to Congress on such a vital subject as neutrality? Not only is American foreign policy being determined, but serious repercussions on domestic issues are involved. A vigilant Congress might well have a significant part in formulating and safeguarding American neutrality.

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[12] For regulations governing travel by American citizens on belligerent vessels, signed by the Acting Secretary of State on Nov. 17, see *ibid.*, p. 4640.

[13] C. C. Hyde, *International Law Chiefly as Interpreted and Applied by the United States* (Boston, 1922), Vol. 2, p. 485.

[14] The study of "Rights and Duties of Neutral States in Naval and Aërial War," completed last year by the Harvard Research in International Law, with Professor Philip C. Jessup as reporter, and published in the *American Journal of International Law*, Vol. 33, pp. 167–817 (Supp., July, 1939), would be of indispensable assistance to a committee appointed by Congress to examine questions with regard to neutrality.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

As indicated elsewhere in these pages, the thirty-sixth annual meeting of the American Political Science Association will be held in Chicago on Friday-Monday, December 27–30, with headquarters at the Palmer House. The chairman of the committee on local arrangements is Professor Leonard D. White, of the University of Chicago, and the committee on program consists of Professors W. Brooke Graves, Temple University, chairman; Everett S. Brown, University of Michigan; Alfred B. Butts, University of Mississippi; Harvey Walker, Ohio State University; and Dr. Benjamin B. Wallace, U. S. Tariff Commission, Washington, D. C. The chairman of the program committee will welcome suggestions from any member of the Association concerning speakers, subjects to be included, and other matters pertinent to the building of the program.

At the College of the City of New York, Professor William B. Guthrie, for many years chairman of the department of government and sociology, has recently retired from active service.

Professor William Anderson, of the University of Minnesota, has succeeded Mr. Louis Brownlow as chairman of the Social Science Research Council's committee on public administration.

At the University of Southern California, Professor Carlton C. Rodee has been made chairman of the department of political science.

Dr. Albert Weinberg, since 1930 a member of the Walter Hines Page School of International Relations at the Johns Hopkins University, has left that institution to join the faculty of the Institute for Advanced Study at Princeton, N. J. He, however, will give the Albert Shaw lectures on diplomatic history at Johns Hopkins during the spring.

Professor Dana G. Munro, director of the Princeton University School of Public and International Affairs, has become the first incumbent of a newly established William Stewart Tod professorship of public affairs, designed by its founder for the head of the school.

Professor Charles M. Kneier, of the University of Illinois, has been appointed consultant by the Tennessee Valley Authority to assist in working out a plan for the future development and government of the town of Norris.

At Geneva, Professor Pitman B. Potter has been appointed general reporter of the next International Studies Conference, which may possibly be held in the United States.

The University of Chicago announces the appointment of Professors John M. Gaus, of the University of Wisconsin, and J. Ralston Hayden, of the University of Michigan, as visiting professors during the summer quarter, 1940.

Professor Kenneth C. Cole, of the University of Washington, will serve as visiting professor in the second term of the summer session at the University of Minnesota. He will teach courses in constitutional law and the elements of politics.

Professor James Hart, of the University of Virginia, is serving as visiting professor at the University of Minnesota during the present winter quarter. He has taken over the course in administrative law formerly taught by Professor Oliver P. Field, and is also giving an advanced course in American national government.

During a winter-term leave of absence from the University of Washington, Professor Linden A. Mander is spending some weeks in Mexico, the remainder of his time being devoted to completing a work on international relations.

Professors Graham H. Stuart and Thomas S. Barclay, of Stanford University, will teach at the University of Washington during the coming summer, and Professor Charles E. Martin of Washington will teach at Stanford.

Professor Marshall E. Dimock has received an extension of leave from the University of Chicago in order to remain in his present official position as Second Assistant Secretary of Labor. Dr. C. Herman Pritchett, formerly with the Tennessee Valley Authority and recently returned from England, will take over his work at Chicago during the winter and spring quarters, 1940.

At Hofstra College, Hempstead, Long Island, Dr. Joseph S. Roucek has been promoted to an associate professorship of political science and sociology and also made chairman of the department of political science.

Under the auspices of the department of political science of Western Reserve University, eight free public lectures were given during November and December by the mayor and heads of services of the city of Cleveland.

Graduate fellowships in the field of local government are again being offered by the University of Denver under a grant from the Alfred P. Sloan Foundation. The maximum fellowship stipend for a twelve-month period is $1,200 for single persons and $1,800 for married men. Applications must be received by the department of government management not later than March 1, 1940.

On December 1 and 2, the University of Chicago celebrated the first decennial anniversary of the completion of the Social Science Research Building. At a session devoted to a survey of research, an address on the subject of urbanism was given by Professor Charles E. Merriam, who also presided at a luncheon at which the principal speaker was Mr. Beardsley Ruml.

Persons desiring quantities of reprints of Professor Robert E. Cushman's annual review of federal Supreme Court decisions, scheduled to appear in the April issue of this journal, are invited to place orders in advance with the office of the Secretary-Treasurer, Harris Hall, Northwestern University, Evanston, Illinois. The reprints will be sold at twenty cents each; and only enough will be prepared to fill orders received in advance.

The Committee on Scientific Aids to Learning, President Conant of Harvard University, chairman, has made a grant to cover the cost of making a microfilm master negative, on the most expensive film, of sets of volumes of scientific and learned journals. This permits the non-profit Bibliofilm Service to supply microfilm copies at the sole positive copy cost, namely, one cent a page for odd volumes, or a special rate of one-half cent a page for any properly copyable ten or more consecutive volumes. The number of pages will be estimated on request to Bibliofilm Service, care U. S. Department of Agriculture Library, Washington, D.C.

Conviction on the part of a number of American scholars in the fields of history of philosophy, of literature and the arts, of the natural and social sciences, of religion, and of political and social movements, that there is need of a journal which will emphasize the inter-relations of such studies and afford a medium for the publication of researches which cross the customary boundary lines or are likely to be of common interest to students in different fields, has influenced a group under the leadership of Professor Arthur O. Lovejoy, of the Johns Hopkins University, to launch a *Journal of the History of Ideas*, with Professor Lovejoy as editor and Professor Philip P. Wiener, of the College of the City of New York, as managing editor. The subscription rate is four dollars a year, and the first number was scheduled to appear during January. One of the nine associate editors is Professor Francis W. Coker, of Yale University.

An historical, political, and socio-economic review of eastern Asia and adjacent Pacific islands is soon to appear under the title of *The Far Eastern Quarterly*. "What we have in mind," announces the editorial board, "is a review devoted to China and Japan and their dependencies, Siberia, the Indo-Chinese peninsula, the East Indies and adjacent islands, which will publish materials relating to the following subjects:

history, politics and government, law, diplomatic and cultural relationships, economics, sociology, geography, and biography." The managing editors are Hugh Borton, Cyrus H. Peake, and Earl H. Pritchard; and other members of the editorial board include Professors Kenneth Colegrove of Northwestern University, Harold S. Quigley of the University of Minnesota, and Charles B. Fahs of Pomona College.

The complete membership of the committee appointed by the National Municipal League to revise the Model State Constitution is as follows (with subjects or articles for which certain members assume special responsibility): W. Brooke Graves, chairman, Frank Bane, Charles A. Beard, Finla G. Crawford, Paul T. Stafford, Robert S. Rankin (bill of rights), Frederick H. Guild (the legislature), Frank M. Stewart (initiative and referendum), George C. S. Benson (the executive), Rodney L. Mott (the judiciary), Arthur N. Holcombe (suffrage and elections), A. E. Buck (taxation and finance), John A. Fairlie (local government), J. Alton Burdine (civil service), Walter F. Dodd (constitutional revision), and Hubert R. Gallagher (inter-governmental relations). Wilbert L. Hindman, of Colgate University, is secretary of the committee.

The seventh conference of the Institute of Pacific Relations was held at Virginia Beach, Virginia, from November 22 to December 2. The conference was somewhat different from previous ones in that it was primarily a study conference to consider the work of the inquiry concerning Far Eastern problems which has been under way under the auspices of the Institute's international secretariat. The conference had an unusually full documentation concerning events in the Far East, and the discussions, which were entirely private, were of a high order. These discussions dealt with four topics—the policies of Japan, the policies of China, the policies of the Western Powers, and possible methods for adjustment of the problems. Representatives were present from the National Councils of Australia, Great Britain, Canada, China, Japan, New Zealand, the Philippines, and the United States. The American group included George H. Blakeslee of Clark University, Brooks Emeny of the Foreign Affairs Council of Cleveland, Roger S. Greene of the World Citizens' Association, William R. Herod of International General Electric, Philip J. Jaffe of *Amerasia*, Major General Frank R. McCoy of the Foreign Policy Association, Eugene Staley of the Fletcher School, Louise Wright of the National League of Women Voters, Quincy Wright of the University of Chicago, and Rear Admiral Harry E. Yarnell. Dr. Carl L. Alsberg of Stanford, Frank C. Atherton of Hawaii, Philip C. Jessup of Columbia, and Ray Lyman Wilbur of Stanford attended as past or present international officers of the Institute. Philip C. Jessup has, during the past year, been chairman, both of the American National Council and of the Pacific Council.

Frank Johnson Goodnow, for many years professor of administrative and constitutional law at Columbia University, president of the Johns Hopkins University, and the first president of the American Political Science Association, died at his home in Baltimore on November 15 1939, in his eighty-first year.[1] One of the leading scholars, teachers, and writers in the broad fields of political science and public law for half a century, he also took an active part in public affairs, and trained a long succession of students to continue the same lines of activity.

Born in Brooklyn, New York, in January, 1859, he was graduated from Amherst College in 1879, received the LL.B. degree from Columbia in 1882, and continued his studies at the École Libre des Sciences Politiques and the University of Berlin. From 1883 to 1891 he was instructor and adjunct professor of history and administrative law in both the Law School and School of Political Science at Columbia University; from 1893 to 1914 he was professor of administrative law and Eaton professor of administrative law and municipal science; and in 1906–07 was the acting dean of the School of Political Science. From 1902 until 1909 he lectured on colonial administration; and in this field his study of printed data was supplemented by extensive travel and direct study of British, Dutch, and other tropical colonies. During 1913–14 he was legal adviser to the new republican government of China, for which he prepared an amended provisional constitution. From 1914 to his retirement in 1929, he was president of the Johns Hopkins University. He received honorary degrees of LL.D. from Amherst, 1897; Columbia, 1904; Harvard, 1909; Brown, 1914; Princeton, 1917; Johns Hopkins, 1930; and J.D. from the University of Louvain in 1927.

In addition to his academic services, Professor Goodnow was an active member of the National Municipal League from its early days, a member of its committee on a municipal program and other committees, and he served on the New York Charter Revision Commission of 1900. On the organization of the American Political Science Association in 1903, he was elected as the first president and reëlected for a second year. His first presidential address on "The Work of the American Political Science Association" charted the field and course of the new organization. At the twenty-fifth annual meeting of the Association at New Orleans in 1929, he was an honored guest; and, meeting students of his former students, he referred to himself as an "intellectual grandfather." It is of interest to note that five of his students have been presidents of the American Political Science Association.

Dr. Goodnow was also a member of President Taft's Efficiency and

[1] The memorial here presented was prepared by Professor John A. Fairlie, of the University of Illinois, and adopted by the American Political Science Association at its meeting in Washington during the last week of December, 1939.

Economy Commission in 1912, of the permanent International Commission under the treaty between the United States and China, the Maryland commission on efficiency and economy in 1915, the Baltimore board of school commissioners, the advisory board of the citizens' military training camps, the boards of the Brookings Institution and the Institute of Government Research, a regent of the University of Maryland, a trustee of the Peabody Institute and of the Tome Institute, one of the founders of the Institut Internationale de Droit Public, a fellow of the American Academy of Arts and Sciences, an advisory editor of the Encyclopedia of the Social Sciences, a member of the National Council of the Foreign Policy Association, and a member of the American Committee on Rights of Religious Minorities.

While president of the Johns Hopkins University, he continued to teach constitutional and administrative law; and under his administration the early emphasis on research was strengthened and the assets of the university were multiplied fourfold.

Dr. Goodnow's scholarly publications began early and constitute a substantial library. His chapter on "The Tweed Ring in New York City" in the first edition of Bryce's *American Commonwealth* (1889), attracted wide attention. Two articles were published in the first volume of the *Political Science Quarterly* (1886), to be followed by others in that journal, in the *Proceedings* of the National Municipal League and the American Political Science Association, the *American Political Science Review*, the *Columbia Law Review* and other legal periodicals. In 1893 he published a two-volume work on *Comparative Administrative Law*, the first work on this subject in English. This was followed by other books on *Municipal Home Rule* (1895), *Municipal Problems* (1897), *Politics and Administration* (1900), *City Government in the United States* (1904), *Principles of the Administrative Law in the United States* (1905), *Selected Cases on the Law of Taxation* (1905), *Government and Administration* (1905), *The Law of Officers* (1906), *Municipal Government* (1909), *Social Reform and the Constitution* (1911), *Principles of Constitutional Government* (1916), *China, An Analysis* (1916), and *The American Conception of Liberty and Government* (1916).

His influence on research in political science is also reflected in a number of the Columbia University Studies in History, Economics, and Public Law and other works by his students. In 1935 a volume of essays on the *Law and Practice of Government and Administration*, by a few of his many students, was published, with an Introduction giving an account of his life and work. His earlier record is somewhat more fully set forth in an article by Professor Munroe Smith of Columbia University published in the *Johns Hopkins Alumni Magazine*, Vol. II (1914), pages 276–285.

Some extracts from these accounts set forth the judgments of his col-

leagues and students as to the distinctive contributions and quality of his work, as well as his personal character and influence. Of his *Comparative Administrative Law*, Thomas Reed Powell has written: "Owing to the absence of any forerunner in the English language dealing with administrative law as a whole, the importance of Dr. Goodnow's survey of experience of foreign countries in solving their administrative problems can hardly be overestimated. By means of this survey he was enabled to set the stakes for the field of American administrative law and to work out the boundaries within which a distinct branch of legal science was to develop."

Of a general characteristic of his writings, most striking in his *Politics and Administration*, Powell has written: "Emphasis is laid by Dr. Goodnow on the physiology rather than the anatomy of government. His essentially practical mind has been quick to see that it is of prime importance to discover how the mechanism of government actually operates. . . . His is a study of dynamics."

Of his interest in municipal government, H. L. McBain, his successor at Columbia, has written: "As a writer and as an enthusiastic coöperator in organized movements for the promotion of better city government in the United States, Dr. Goodnow has contributed in no slight measure to the development in America of that very modern spirit of interest and understanding of things municipal which is of so happy presage for our future progress."

Professor Munroe Smith wrote of his book on *Social Reform and the Constitution*, that it "is in reality a contribution to what M. Ballot-Beaupre has happily termed 'evolutive' interpretation." Of his work in general, Smith wrote: "He has many of the best traits of the purely academic investigator; a skeptical attitude toward traditional theories; a suspended judgment where the evidence is conflicting; a desire to get at the facts, and great patience in his search for them . . . . On the other hand, Goodnow differs from many scholars in his lack of interest in facts as such. To him a fact is of little moment unless it proves something that is worth while, and a theory is important only in view of its effects upon social life."

In his address at the luncheon in Goodnow's honor at New Orleans in 1929, Dr. Charles A. Beard summarized his accomplishments in these words: "Mr. Goodnow was the first scholar in the United States to recognize the immense importance of administration in modern society and to sketch the outline of the field . . . . Not content with the law of his subject, he went behind the scenes to explore the nature and operations of politics in relation to administration . . . . But ever inquiring, Mr. Goodnow carried his analysis over into the amazing jurisprudence of constitutional law and disclosed in that mysterious domain (once gener-

ally supposed to be mathematical) the operation of sentiments, intuitions, and opinions." To this, Beard appends this tribute: "We must also bear witness to his personal qualities, his unfeigned simplicity, as natural as the rain and sun, without pride or pique of office or authorship, his careless generosity in scattering aid to students without hope of reward here or hereafter, his unfailing humor flowing up out of a knowledge that all are born to trouble, folly, and joy, as the sparks fly upward. Those whose paths cross his find a new mellow light in their ways."

The writer of the Introduction to the volume of *Essays* adds: "It was primarily his character, personality, and intellect that left a lasting mark and affection in the lives of those who were fortunate enough to study under him. . . . Everyone who came in contact with him could not help but be imbued with his enthusiasm for social studies and be inspired with his spirit of practical idealism . . . . Finally he was admired as a man for his broad, sociological approach to governmental problems and for his liberal and public-spirited views on social problems. He attacked the most contentious issues of society with the utmost fearlessness and insisted upon analyzing the implications and social effects of constitutional decisions and of governmental policies."

The American Political Science Association would pay its tribute to one who played a large part in its organization and contributed much to its development; whose life work forms an important stage in the scientific analysis of and research in the structure and operation of political and social institutions, which brought about significant improvements; and whose influence will continue in the years to come; and the Association here places on record its profound sorrow at his passing.

Thirty-fifth Annual Meeting of the American Political Science Association. The thirty-fifth annual meeting of the American Political Science Association was held in Washington, D. C., on Thursday–Saturday, December 28–30, 1939, with the Wardman Park Hotel serving as headquarters. Registrants were 1,232 in number, indicating an attendance far exceeding that at any previous meeting. The growth in registration of members and guests at annual meetings during the past 16 years has been as follows: Columbus (1923), 151; Washington (1924), 136; New York (1925), 144; St. Louis (1926), 157; Washington (1927), 292; Chicago (1928), 235; New Orleans (1929), 127; Cleveland (1930), 317; Washington (1931), 353; Detroit (1932), 200; Philadelphia (1933), 360; Chicago (1934), 310; Atlanta (1935), 315; Chicago (1936), 403; Philadelphia (1937), 531; Columbus (1938), 555.

The presidential address by Professor Charles Grove Haines, on "The Adaptation of Administrative Law and Procedure to Constitutional Theories and Principles," was delivered on the evening of the second

day, and is printed in this issue of the REVIEW. On Thursday afternoon, Mrs. Roosevelt entertained the women members and wives of members of the Association at tea in the White House. On Friday afternoon, Mr. Archibald MacLeish, the Librarian of Congress, received members of the Association at the Library of Congress, and Mr. J. B. Childs, chief of the Division of Documents, explained the research facilities of the Library.

At the luncheon on Thursday, an address on the late Dr. Frank J. Goodnow, first president of the Association, was delivered by Professor Marshall E. Dimock, and a memorial, drafted by Professor John A. Fairlie, and printed above, was adopted.

A newly organized Society for Public Administration held its first sessions in the same hotel on the day preceding the Association's meeting, and on the following day, joint sessions of the two organizations were held.

The program of the Association meeting, revised to show only those persons who actually participated in the various sessions, was as follows:

Thursday, December 28, at 9:30 A.M.

SECTIONAL MEETINGS

(1) POLITICAL PARTIES AND PUBLIC OPINION (*First Session*)

Chairman: Robert C. Brooks, Swarthmore College
General Topic: Washington Correspondents and the Federal Government

Participants: Turner Catledge, *The New York Times;* Mary Hornaday, *The Christian Science Monitor;* Robert Kintner, *The Capital Parade;* Ernest K. Lindley, *Newsweek.*

(2) INTERNATIONAL RELATIONS (*First Session*)

Chairman: Frederick L. Schuman, Williams College
General Topic: The World Scene on the Eve of 1940

"Europe," Clifton Utley, Chicago Council on Foreign Relations.
"Scandinavia," Ben A. Arneson, Ohio Wesleyan University.
"The Near East," Wilbur W. White, Western Reserve University.
"The Far East," Harold M. Vinacke, University of Cincinnati.
Commentator: C. Hart Schaaf, University of Michigan.

(3) THE STATE AND THE INDIVIDUAL (*First Session*)

Chairman: Marshall E. Dimock, Assistant Secretary of Labor

"Rights and Privileges of National Residence," C. Herman Pritchett, U. S. Immigration and Naturalization Service.
Commentator: Ralph Seward, Chairman, Board of Review, U. S. Immigration and Naturalization Service.
"The Police Prerogatives," Charles Fairman, Stanford University.
Commentator: Patterson French, Yale University.
"Individual Claims to Social Benefits," Jane Perry Clark, Barnard College.

(4) GOVERNMENTAL RESEARCH (*First Session*)
(Jointly with the Society for Public Administration)

Chairman: John M. Pfiffner, University of Southern California
General Topic: University Training for Careers in Governmental Research

Participants: Charles S. Ascher, Committee on Public Administration, Social Science Research Council; George A. Graham, Princeton University; Morris B. Lambie, Harvard University; Walter Matscheck, Railroad Retirement Board; Samuel C. May, University of California; William E. Mosher, Syracuse University; Howard B. Myers, Works Progress Administration; Joseph M. Pois, Bureau of the Budget; Lewis B. Sims, Bureau of the Census; Donald C. Stone, Bureau of the Budget; Lent D. Upson, Detroit Bureau of Governmental Research and Wayne University; Floyd Reeves, American Youth Commission; Ewan Clague, Social Security Board.

(5) PUBLIC ADMINISTRATION (*First Session*)

Chairman: Edward B. Logan, Budget Secretary, State of Pennsylvania

"*Determination of Financial Policy for the Federal Government,*" Daniel P. Selko, Brookings Institution.
"*The Rôle of the Bureau of the Budget in Federal Administration,*" Harold D. Smith, Director of the Budget.
"*Financial and Budgetary Administration in an Operating Department,*" W. A. Jump, Director of Finance, Department of Agriculture.
"*Statistics as an Aid and Control in Administration,*" Stuart A. Rice, Central Statistical Board.

(6) STATE AND LOCAL GOVERNMENT (*First Session*)

Chairman: Lane W. Lancaster, University of Nebraska
General Topic: Federal-Local Relations

"*The Federal Works Program and the Cities,*" Arthur W. Macmahon, Columbia University.
"*The Influence of Federal Programs on Local Personnel Policies,*" A. H. Aronson, Chief, State Technical Advisory Service, Social Security Board.
"*The Federal Influence on the Financing of Local Governments,*" Wylie Kilpatrick, Treasury Department.
Commentator: G. Lyle Belsley, Civil Service Assembly.

(7) TEACHING OF THE BASIC COLLEGE COURSE IN POLITICAL SCIENCE

Chairman: William Anderson, University of Minnesota

Participants: Walter H. C. Laves, University of Chicago; Belle Zeller, Brooklyn College; Asher N. Christensen, University of Minnesota; E. M. Kirkpatrick, University of Minnesota; Orren C. Hormell, Bowdoin College; John G. Herndon, Haverford College.
Commentators: Harold M. Dorr, University of Michigan; A. Gordon Dewey, Brooklyn College; O. Garfield Jones, University of Toledo.

(8) COMPARATIVE GOVERNMENT (*First Session*)

Chairman: George Bernard Noble, Reed College.

"*Growth of Governmental Functions in Britain and France,*" Eugene P. Chase, Lafayette College.

Commentator: Robert K. Gooch, University of Virginia.

"*The Policy-Determining Rôle of the Permanent Staff in Great Britain,*" Charles Aikin, University of California.

Commentators: Schuyler C. Wallace, Columbia University; W. H. Wickwar, Rockford College; J. Donald Kingsley, Antioch College.

"*Totalitarian War: What It Means to Dictatorship and Democracy,*" Carl J. Friedrich, Harvard University.

Commentators: Warner Moss, College of William and Mary; James K. Pollock, University of Michigan; Wolfgang Kraus, Smith College.

"*Labor Relations and Governmental Policies under Dictatorship and Democracy,*" Lewis L. Lorwin, formerly Economic Adviser to the International Labor Office.

Commentator: Marshall E. Dimock, Assistant Secretary of Labor.

Thursday, December 28, at 12:30 P.M.

SUBSCRIPTION LUNCHEON

Joint Session: American Political Science Association
Society for Public Administration

Presiding Officer: William E. Mosher, Syracuse University

Speaker: Charles A. Beard: "Administration, A Foundation of Government."

Thursday, December 28, at 2:30 P.M.

ROUND TABLES

(1) Political Philosophy of the New Deal

Chairman: Benjamin E. Lippincott, University of Minnesota

Participants: Norman Thomas, Socialist candidate for the Presidency; Max Lerner, Williams College; Adolph A. Berle, Jr., Assistant Secretary of State; J. B. Shannon. University of Kentucky; Mulford Q. Sibley, University of Illinois.

(2) The Alignments for the 1940 Election

Chairman: Earl DeLong, Northwestern University

Participants: Harold L. Ickes, Secretary of the Interior; Thomas S. Barclay, Stanford University; Asher N. Christensen, University of Minnesota; Thomas H. Reed, Director of Research, Republican Program Committee.

(3) The Foreign Policy of Mr. Cordell Hull

Chairman: Walter H. C. Laves, University of Chicago

Participants: Charles A. Beard, New Milford, Connecticut; Russell H. Fitzgibbon, University of California; Denna F. Fleming, Vanderbilt University; H. Schuyler Foster, Ohio State University; Francis O. Wilcox, University of Louisville; Quincy Wright, University of Chicago; Charles G. Fenwick, Bryn Mawr College; Philip C. Jessup, Columbia University; Henry F. Grady, Assistant Secretary of State; Grayson L. Kirk, University of Wisconsin.

(4) The Supreme Court: 1933–1939

Chairman: Francis Aumann, Ohio State University

Participants: Ben A. Arneson, Ohio Wesleyan University; Kenneth C. Cole, University of Washington; Gregory Hankin, Attorney-at-law, Federal Power

Commission; C. Perry Patterson, University of Texas; Llewellyn Pfankuchen, University of Wisconsin; Earl L. Shoup, Western Reserve University; Thomas Reed Powell, Harvard University.

(5) Advances in Personnel Administration
(Joint Session with the Society for Public Administration)

Chairman: Joseph P. Harris, University of California

Participants: Morris A. Copeland, Executive Secretary, Central Statistical Board; Frederick M. Davenport, Federal Council on Personnel Administration; Arthur S. Flemming, United States Civil Service Commission; H. Eliot Kaplan, National Civil Service Reform League; Morris B. Lambie, Graduate School, Harvard University; Lewis Meriam, Brookings Institution; William E. Mosher, Syracuse University; Oliver C. Short, Department of Commerce; Leonard D. White, University of Chicago.

(6) Nationality Problems

Chairman: Rinehart J. Swenson, New York University, in coöperation with the National Council on Naturalization and Citizenship

Participants: Henry B. Hazard, U. S. Immigration and Naturalization Service; Ruth B. Shipley, Chief of the Passport Division, U. S. Department of State; Edwin M. Borchard, Yale University; Ruth C. Bernstein, National Council on Naturalization and Citizenship; Read Lewis, Foreign Language Information Service; Henry Butler, Member of the Bar, Washington, D. C.

(7) Boundaries of Administrative Discretion
(Joint Session with the Society for Public Administration)

Chairman: Spencer D. Parratt, Maxwell School of Citizenship and Public Affairs, Syracuse University

Participants: Robert M. Benjamin, Commissioner, New York State Commission on Quasi-Judicial Action of Administrative Agencies; John Collier, Commissioner, Indian Affairs; Charles Fahy, General Counsel, National Labor Relations Board; James Hart, University of Virginia; Nathan R. Margold, Solicitor, Department of the Interior; Ashley Sellers, Department of Agriculture.

Thursday, December 28, at 7:00 P.M.

SUBSCRIPTION DINNER

Joint Session: American Political Science Association
Society for Public Administration

Chairman: Charles Grove Haines, University of California

Speaker: The Honorable Henry A. Wallace, Secretary of Agriculture: "Emerging Problems in Public Administration."

Friday, December 29, at 8:00 A.M.

BREAKFAST MEETING

Pennsylvania Political Science Association

Chairman: W. Brooke Graves, Temple University

Friday, December 29, at 9:30 A.M.

SECTIONAL MEETINGS

(1) Political Parties and Public Opinion (*Second Session*)

Chairman: Robert C. Brooks, Swarthmore College
General Topic: Regional Reporting of Washington News

Participants: Dayton E. Heckman, Municipal University of Omaha; Donald S. Hecock, Wayne University; Marbury B. Ogle, Western Reserve University; Raymond G. McKelvey, Pomona College; Frances L. Reinhold, Swarthmore College; E. E. Schattschneider, Wesleyan University; Charles W. Smith, Jr., University of Alabama; R. C. Brink.

(2) International Relations (*Second Session*)

Chairman: Frederick L. Schuman, Williams College
General Topic: American Foreign Policy on the Eve of 1940

"*The Historical Meaning of Isolationism,*" Albert K. Weinberg, Institute for Advanced Study, Princeton University.
"*American Neutrality,*" Brooks Emeny, Council on Foreign Relations, Cleveland.
"*The President and Congress in Foreign Relations,*" Charles E. Martin, University of Washington.
"*Cultural Relations with Latin America,*" Harley Notter, Department of State.

(3) The State and the Individual (*Second Session*)

Chairman: Marshall E. Dimock, Assistant Secretary of Labor

"*Rights in Sovereign Privileges,*" Spencer D. Parratt, Syracuse University.
"*Vested Property Rights,*" Oliver P. Field, Indiana University.
"*The Bill of Rights,*" J. A. C. Grant, University of California.

(4) Governmental Research (*Second Session*)

Chairman: John M. Pfiffner, University of Southern California
General Topic: Quantitative Approaches to the Study of Politics

"*Contribution of the Opinion Poll Technique to Basic Research in Politics,*" Herman C. Beyle, Syracuse University.
"*Relation of Opinion Polls to Basic Research in Politics,*" George Gallup, American Institute of Public Opinion.
"*Methods of Studying Political Behavior,*" Harold F. Gosnell, University of Chicago.
Commentators: Henry F. Hubbard, Council of Personnel Administration; Thomas H. Reed, Governmental Consultant.

(5) Public Administration (*Second Session*)

Chairman: Edward B. Logan, Budget Secretary, State of Pennsylvania

"*Senatorial Confirmation (primarily from the standpoint of the effect of confirmation on federal administration),*" Joseph P. Harris, University of California.
"*Social Security Financing,*" Eleanor L. Dulles, Social Security Board.

"The Advance Planning of Federal Public Works," Fred E. Schnepfe, Director, Planning and Federal Projects Division, Public Works Administration.

(6) STATE AND LOCAL GOVERNMENT (*Second Session*)

Chairman: Lane W. Lancaster, University of Nebraska
General Topic: State and Local Developments

"The Influence of Federal-State Relations on County Government and Administration," Arthur W. Bromage, University of Michigan.
"The Integration of State Relief and Welfare Administration," William L. Bradshaw, University of Missouri.
"Economy Movements and Local Government," C. M. Kneier, University of Illinois.
"The American Theory of Local Self-Government," James E. Pate, College of William and Mary.
"Planning by Local Units," J. Estill Reeves, Kentucky Legislative Council.
Commentators: Albert Lepawsky, Federation of Tax Administrators; Alfred Bettman, Cincinnati City Planning Commission.

(7) TEACHING OF THE SOCIAL SCIENCES IN THE HIGH SCHOOLS
(Joint Session with the National Council for the Social Studies)

Chairman: Phillips Bradley, Queens College

Participants: Charles A. Beard, New Milford, Connecticut; William Carr, Educational Policies Commission; Myer Cohen, San Francisco School of Social Studies; Robert H. Connery, Catholic University; Erling Hunt, Teachers College, Columbia University; Leonard Kenworthy, Friends Central School, Overbrook; David W. Knepper, Mississippi State College for Women; Max Lerner, Williams College; Charles Merrifield, John Burroughs School, St. Louis; Warner Moss, College of William and Mary; Walter Myer, Civic Education Service; Harrison C. Thomas, Board of Education, New York City; Ruth West, Lewis and Clarke High School, Spokane, Washington; Howard White, Miami University; John G. Haefner, University of Iowa; Hilda M. Watters, Western Illinois State Teachers College.

(8) COMPARATIVE GOVERNMENT (*Second Session*)

Chairman: George Bernard Noble, Reed College

"Governmental Planning in the U.S.S.R.," Boris Schoenfeldt, Columbia University.
Commentators: Karl W. Kapp, New York University; Samuel N. Harper, University of Chicago.
"Governmental Planning in Germany and Italy," Fausto Pitigliani.
Commentators: Douglas Miller, University of Denver; Carl Schmidt, Columbia University.
"The Contribution of Planning Staffs in Modern Governments," E. J. Coil, National Economic and Social Planning Association.
Commentator: John Miller, National Resources Planning Board.
"What Kinds of Economic Planning are Compatible with Free Institutions," Eugene Staley, Fletcher School of Law and Diplomacy.
Commentators: George H. Soule, National Economic and Social Planning Association; David Cushman Coyle, Consultant to National Planning Board and Resettlement Administration.

Friday, December 29, at 12:30 P.M.

SUBSCRIPTION LUNCHEON

Presiding Officer: Frederick M. Davenport, National Institute of Public Affairs.

Speaker: The Honorable Thurman W. Arnold, Assistant Attorney-General: "The Maintenance of Free Trade within the Borders of the United States."

Friday, December 29, at 2:30 P.M.

GENERAL SESSION

Presiding Officer: Clarence A. Berdahl, University of Illinois.

Speaker: Clarence K. Streit, Chairman, National Executive Committee, Inter-Democracy Federal Unionists: "Union Now."

Commentators: James T. Shotwell, Columbia University; William Y. Elliott, Harvard University; H. Duncan Hall, formerly League of Nations Secretariat; Quincy Wright, University of Chicago; Felix Morley, *Washington Post*; A. R. Hatton, Northwestern University; Benjamin Gerig, formerly League of Nations Secretariat.

Friday, December 29, at 6:00 P.M.

Meeting, Board of Editors, AMERICAN POLITICAL SCIENCE REVIEW

Friday, December 29, at 8:00 P.M.

PRESIDENTIAL ADDRESS

Presiding Officer: Charles E. Merriam, University of Chicago

Speaker: Charles Grove Haines, President, American Political Science Association: "The Adaptation of Administrative Law and Procedure to Constitutional Theories and Principles."

Friday, December 29, at 10:00 P.M.

SMOKER

Hosts: The American University, The Brookings Institution, The Catholic University of America, Georgetown University, George Washington University, Goucher College, Johns Hopkins University, National Institute of Public Affairs, National University, University of Maryland, University of Virginia.

Saturday, December 30, at 8:00 A.M.

BREAKFAST MEETING for discussion of the International Labor Organization.

Chairman: Smith Simpson, University of Pennsylvania
Remarks: Samuel McCune Lindsay, Columbia University

Saturday, December 30, at 9:30 A.M.

ROUND TABLES

(7) PUBLIC REPORTING BY FEDERAL AGENCIES

Chairman: Peter H. Odegard, Amherst College

Participants: M. S. Eisenhower, Director of Information, Department of Agriculture; Walter Onslow, Supervisor of the Press Service, Department of the In-

terior; Malcolm Ross, Director of Publications, National Labor Relations Board; Edward L. Bernays, Public Relations Counselor; E. Pendleton Herring, Harvard University; William Hessler, Chief Editorial Writer, *Cincinnati Inquirer;* James McCamy, Department of Agriculture; Judson King, National Popular Government League.

(8) CENTRALIZATION IN THE UNITED STATES: 1933–1939

Chairman: W. Brooke Graves, Temple University

Participants: Edna R. Fluegel, College of St. Catherine; Merritt M. Chambers, American Youth Commission; Robert D. Baum, Fellow at The Brookings Institution; Gordon E. Dean, Special Executive Assistant to the Attorney-General, Department of Justice; Dorothy Schaffter, Vassar College; E. R. Gray, Assistant Chief Statistician, Division of States and Cities, Bureau of the Census; Jane Perry Clark, Barnard College; Carleton R. Ball, Extension Service, Department of Agriculture; Charles P. Howard, County Treasurer of Middlesex County, Massachusetts.

(9) CHANGING CONCEPTS OF INTERNATIONAL LAW AS TO NEUTRALITY AND WAR

Chairman: Clyde Eagleton, New York University

Participants: Charles G. Fenwick, Bryn Mawr College; Payson S. Wild, Jr., Harvard University; Quincy Wright, University of Chicago; Josef L. Kunz, University of Toledo; W. R. Vallance, Department of State.

(10) THE IMPLICATIONS OF JAPAN'S ASIATIC POLICY

Chairman: Joseph R. Hayden, University of Michigan

Participants: Elbert D. Thomas, United States Senator from Utah; T. A. Bisson, Foreign Policy Association; H. Duncan Hall, formerly League of Nations Secretariat; Paul H. Clyde, Duke University; Rupert Emerson, Harvard University; Albert E. Hindmarsh, Harvard University; Lennox A. Mills, University of Minnesota; William B. Ballis, Ohio State University; Stanley K. Hornbeck, Department of State.

(11) GOVERNMENT AND BUSINESS UNDER THE NEW DEAL

Chairman: Ford P. Hall, Indiana University

Participants: Charles C. Rohlfing, University of Pennsylvania; Edward W. Carter, University of Pennsylvania; Weldon Cooper, University of Alabama; Hugh L. Elsbree, Dartmouth College; Howard L. Bevis, Harvard University; Merle Fainsod, Harvard University; Robert J. Harris, Louisiana State University; Charles B. Hagan, University of Illinois; Asher N. Christensen, University of Minnesota; Theodore J. Kreps, Economic Adviser, Temporary Economic Committee.

Saturday, December 30, at 12:30 P.M.

SUBSCRIPTION LUNCHEON

Presiding Officer: Louise Overacker, Wellesley College

Speaker: The Honorable T. V. Smith, Congressman-at-Large from Illinois: "The Need for Historical Perspective in Politics."

Saturday, December 30, at 2:30 P.M.

BUSINESS MEETING

Presiding Officer: President Charles Grove Haines, University of California

At the annual business meeting, the Secretary-Treasurer reported that 519 new members had been added to the membership of the Association, while there were 167 cancellations, making a net gain of 352, as compared with 140 in 1938, 90 in 1937, and 68 in 1936. Appreciation was expressed for the generous assistance of the members of the Association who participated in promoting this large increase in the membership of the society. The financial report of the Secretary-Treasurer indicated that the income for the year had been $12,915.27, as compared with $10,894.44 in 1938. Expenditures aggregated $12,863.83, as compared with $11,078.78 in 1938. The checking account of the Association in the First National Bank in Evanston, Illinois, was $3,550.63, as compared with $3,499.19 in 1938. The trust fund account showed a balance of $325.32, as compared with $221.97 in 1938. The investments of the Association in the custody of the First National Bank amounted to $7,600, all in United States Treasury Bonds.

The auditing committee, composed of Walter H. C. Laves and Walter F. Dodd, reported that it had examined the accounts of the Secretary-Treasurer and verified the audit report prepared by Frank E. Kohler and Company, and announced that it had found the statement of accounts as prepared by the Secretary-Treasurer to be correct. The Committee commended the bookkeeping system used in the office of the Secretary-Treasurer and renewed the recommendation of previous auditing committees to the effect that members of the Association be urged to coöperate with the Secretary-Treasurer in changing their memberships to the calendar year basis. The Auditing Committee also commended the officers of the Association for the large increase in membership and recommended that efforts be made to increase the number of sustaining and life members.

The business meeting approved the vote of the Executive Council to amend the rule requiring that the membership of members who have not paid their dues be cancelled at the end of the year by the adoption of instructions to the Secretary-Treasurer giving him discretion to continue for two years the membership of any delinquent member of long previous good standing in the Association. The report of the Secretary-Treasurer on finances, showing an estimated revenue of $13,622 in the year 1940 and an estimated expenditure of $13,595 in the same period, was adopted. The Secretary-Treasurer was instructed to apply the interest received from United States Treasury Bonds of the par value of $4,800 owned by the Association during the year 1940 to the maintenance of the Personnel Service. Other decisions included an order that Chinese libraries, at the

discretion of the Secretary-Treasurer, be exempted from rules regarding the payment of dues and subscriptions during the year 1940.

A resolution was adopted providing for a tentative policy of a three-year cycle governing the selection of place of annual meeting, with rotation among Chicago, Washington, and a third place (to be determined for each third year), and providing that this schedule begin with Chicago as the place of meeting in 1940. It was suggested, although no action was taken thereon, that such cities as New Orleans and various cities west of the Mississippi, e.g., Denver, be considered as the third meeting place. A resolution was adopted advising the Program Committee in 1940 that the annual meeting should start on Saturday, December 28, and continue into Monday, December 30.

The recommendations of the Committee on Program-Making, consisting of Clarence A. Berdahl, Francis W. Coker, and Walter R. Sharp, were adopted as follows: (1) every chairman, leader, or presiding officer should be instructed to enforce rigidly such rules as will permit the participation of the largest possible number; (2) provision might be made for a limited number of round tables open on invitation only, especially for discussion of problems in research or problems in association with other functional groups; (3) at least some of the round tables might be of a "follow-up" nature, and provide opportunity for further informal discussion of a topic introduced at a general session or section meeting; (4) the number of papers or prepared discussions at the various sessions should be severely limited, probably to not more than two or three, in order to prevent overcrowding of the program; (5) papers to be read at sectional meetings and the memoranda for discussion at round tables should be prepared well in advance and circulated beforehand among the participants, in order that the discussions may be more pointed and more clearly directed towards the common subject.

The report of Professor Frederic A. Ogg as Managing Editor of the REVIEW showed that the volume for 1939 contained 1153 pages (excluding 39 pages of advertising), as compared with 1219 pages in 1938, and that the cost of publication had been proportionately reduced. The distribution of space in the REVIEW in 1939 was as follows: leading articles, 244 pages; department notes, 873 pages; list of doctoral dissertations in preparation, 16 pages; and index, 20 pages. The department notes were distributed over the following pages: American government and politics, 81; constitutional law, 52; public administration, 44; municipal affairs, 28; rural local government, 15; foreign government and politics, 74; international affairs, 33; news and notes, personal and miscellaneous, 46; book reviews and notices, 315; bibliographies of recent publications of political interest, 185.

The cost of publishing the REVIEW in 1939 was $7,691.21, as com-

pared with $8,091.43 in 1938. The report of the Secretary-Treasurer showed an estimate of $8,420 for the cost of publication in 1940. This increase will permit a substantial addition to the 1940 volume over the 1939 volume, as well as provide for a considerable enlargement of the number of copies to be printed due to the growth of the membership of the Association. The Managing Editor earnestly requested the coöperation of the members of the Association in the submission of scholarly articles and notes and called attention to the fact that, in the main, the practice is, and must be, not to solicit manuscripts for the REVIEW, but rather to depend upon the voluntary proffering of articles and notes. The Association adopted a resolution expressing its sincere appreciation of the efforts of the Managing Editor in maintaining the REVIEW upon a standard of high scholarship, broad interest, and scientific achievement. The Executive Council reëlected Professors Arthur W. Bromage, J. A. C. Grant, W. C. Johnstone, Peter H. Odegard, and Schuyler C. Wallace as members of the Board of Editors for the two-year period 1940–41.

Resolutions were adopted expressing the Association's commendation of the services of Professor Robert C. Brooks for editing the collection of essays entitled *Bryce's American Commonwealth; Fiftieth Anniversary*, published in 1939, and of those of Professor William Anderson in supervising the publication, also in 1939, of *Political Science in American Colleges and Universities, 1636–1900*, by Anna Haddow. The Executive Council approved in principle a project for the publication of a Library of American Political Thought.

The following resolution concerning the publication program of the United States Department of State, drafted by Robert R. Wilson, was adopted: "Resolved that the American Political Science Association expresses its continued active interest in and appreciation of the enlarged publication policy of the United States Department of State, especially the initiation of the *Bulletin* of the Department of State, the plan of shortening the gap between the date of documents and their actual publication in *Foreign Relations*, the publication of the Paris Peace Conference records, the early publication of the Hackworth *Digest of International Law*, and the early revision of the *List of Treaties in Force;* and resolved that copies of this resolution be sent to the Secretary of State, the Director of the Bureau of the Budget, and the Chairman of the Committee on Appropriations in each House of Congress."

A report outlining a plan for establishing a permanent endowment for the Association was submitted by a committee consisting of Professors William Anderson (chairman), Charles A. Beard, Kenneth Colegrove, John A. Fairlie, Charles G. Haines, Arthur N. Holcombe, Isidor Loeb, Charles E. Merriam, William B. Munro, Frederic A. Ogg, Lindsay Rogers, and James T. Young, and Messrs. Frederick M. Davenport and Walter F.

Dodd. The committee was continued for the time being; and meanwhile the Association adopted, on its recommendation, a general resolution as follows, with the necessary legal phraseology to be supplied in due course: "(1) That the American Political Science Association authorize the establishment of an Endowment Fund, to be invested and preserved intact as to principal, except as any donor may otherwise stipulate, the proceeds thereof to be used from year to year for the purpose of expanding and improving the work of the Association; (2) that the President of the Association be authorized to appoint an Endowment Committee to solicit gifts and bequests to the Endowment Fund; (3) that the Executive Council be authorized to appoint, by a majority vote of all the members (taken by mail if necessary), a Trust Committee, and to fill vacancies therein by similar vote, such Committee to consist of the President, Secretary-Treasurer, and five other members of the Association; the latter for terms of five years, with overlapping terms, so that after the first year one member shall be appointed each year; (4) that the Trust Committee be authorized: (a) to receive gifts and bequests to the Endowment Fund; provided that where special conditions as to the use of funds are attached to any gift or bequest, the Executive Council shall also give its approval to the acceptance; (b) with the advice of a committee of three investment counsellors chosen by it, whose identity shall always be known to the Executive Council, to invest and reinvest such endowment funds; (c) to make arrangements with a legally incorporated bank or trust company for the custody and safekeeping of the endowment funds; and (d) to appropriate from the annual income of the fund (or from the principal, if so provided by the donor), for any of the purposes for which endowments have been established, subject to such regulations and instructions as may be made by the Executive Council."

The following officers were elected for the year 1940: president, Robert C. Brooks (Swarthmore College); first vice-president, Elbert D. Thomas (United States Senator from Utah); second vice-president, H. C. Nixon (University of Missouri); third vice-president, Thomas S. Barclay (Stanford University); and secretary-treasurer, Kenneth Colegrove (Northwestern University). Five members of the Executive Council with terms of office for 1940–42 were elected as follows: Ernest S. Griffith (American University); Charles S. Hyneman (Louisiana State University); Rodney L. Mott (Colgate University); George B. Noble (Reed College); and Bessie C. Randolph (Hollins College).

Reappointment of the following committees was ordered: Committee on Regional and Functional Organizations (Roscoe C. Martin, chairman); Committee on Endowment (William Anderson, chairman); Committee on Relations with Public Officials (Joseph P. Harris, chairman); Committee on Coöperation with the National Council of Social Studies

(Phillips Bradley, chairman); and Committee on Exchange Professorships (Peter Odegard, chairman). The President was authorized to appoint the following new committees: Committee to Survey the Personnel Service (five members); Committee on Public Law (five members); Committee on Civil Service Examinations (five members); and Committee on the Electoral Procedure of the Association (five members). The Committee on Public Law was instructed to investigate: (a) the teaching of public law in departments of political science in American colleges and universities; (b) recent developments in administrative law and procedure; and to report recommendations thereon. The Committee on Civil Service Examinations was instructed to confer with the United States Civil Service Commission and other governmental authorities to determine the facts with respect to the proposal of the Commission to eliminate the political science option or sub-option from the junior professional assistant examinations, and to suggest a remedy.—KENNETH COLEGROVE, Secretary-Treasurer.

Bryce's American Commonwealth; Fiftieth Anniversary. EDITED BY ROBERT C. BROOKS. (New York: The Macmillan Company. 1939. Pp. xii, 245. $2.50.)

This volume, which grew out of the commemoration of the publication of Bryce's *The American Commonwealth* at the meeting of the American Political Science Association in 1938, is a collection of papers presented on that occasion, supplemented by other materials pertinent to the subject. Despite the diversity of themes, they are bound together in unity by the central theme and by a judicious discharge of responsibilities. Charles Grove Haines deals with Bryce's federalism, analyzes the sources upon which Bryce relied, expresses surprise at the ease with which he accepted the Federalist conception of the Constitution, and comments pertinently on his neglect of the rôle assumed by the Supreme Court. State and local governments are surveyed by Frances L. Reinhold, who notes Bryce's scant treatment of local government in rural regions and presents sharp contrasts now offered to the shame of the cities described by Bryce. Robert C. Brooks takes Bryce's chapters on political parties as starting points from which to trace developments down to 1938, and in the process takes the Old Master gently to task for his anti-Democratic bias and his lack of discrimination in interpreting certain phases of American history. "American Public Opinion as Bryce Described It and as It is Today" is the topic assigned to W. Brooke Graves; in his essay, Mr. Graves pays high tribute to Bryce's perspicacity and yet expresses some wonder that he overlooked certain powerful tendencies, such as the rôle of organized labor. Choosing as his text Bryce's dictum that great changes lay ahead in 1888, Arthur N. Holcombe outlines these and points out some that Bryce scarcely foresaw at all. Francis W. Coker devotes several pages to a study of Bryce's materials and methods and to contemporary reviews of *The American Commonwealth* shortly after its appearance. These essays are supplemented by reprints of Woodrow Wilson's review of Bryce in the *Political Science Quarterly* of March, 1889, and Lord Acton's review in the *English Historical Review* of April, 1889. William Bennett Munro ends on the personal note with an appreciation of "the Bryce that I knew."

Needless to say, all of the papers are marked by careful scholarship, good taste, and fine critical judgment. They constitute a memorial in every respect worthy of the great subject. The volume ought to be deemed a necessity by all students of American government, and to stand on every shelf by the side of Bryce's *American Commonwealth*, as a warning, a supplement, and a needful commentary.

CHARLES A. BEARD.

New Milford, Conn.

Mr. Justice Miller and the Supreme Court, 1862–1890. By Charles Fairman. (Cambridge, Mass.: Harvard University Press. 1939. Pp. viii, 456. $4.50.)

When Samuel F. Miller went to Washington in 1862 to take his seat as an associate justice of the Supreme Court, he was almost unknown outside of Iowa. There he had built up a good, although hardly an outstanding, law practice, he had helped organize the Republican party, and had been an unsuccessful candidate for the offices of state senator and governor. He had no formal training in the law, although he had studied medicine at Transylvania University and practiced for some time before reading law on the side. He had no judicial experience; indeed, he had held no public office other than that of justice of the peace in Kentucky while he was practicing medicine. His learning in the law was never of formidable proportions, but nearly all students of the Supreme Court would today agree that he was one of the justices who played a leading rôle in shaping the law of the Constitution and that he was one of the two most influential members of the Court between the beginning of the Civil War and the end of the century.

Professor Fairman's study of Miller is a very real contribution to the field of judicial biography, a field only beginning to be carefully cultivated. The book gives evidence of long and painstaking research. The author unearthed a treasure trove of extraordinary value in the large collection of letters written by Miller to his brother-in-law and closest friend, W. P. Ballinger of Texas. These confidential, and at times indiscreet, letters add depth and color to the portrait of Miller, as they also throw light upon the personal relationships of the justices, and upon their political and judicial ambitions. No one could read these letters and continue to regard the members of that powerful court as selfless machines having no interest in the partisan controversies of the times.

It is inevitable that no two persons concerned with the treatment of a given subject will agree about the distribution of space. It seems to me that some of the Ballinger letters are given at unnecessary length, and that certain issues of relatively little importance are discussed in undue detail. Compare, for example, the fifteen pages devoted to the nomination of Cushing as chief justice, and the same amount given to Miller's attempt to get for Mr. Ballinger the position on the Court which went to Harlan, with the thirty-seven pages which have to tell the story of Miller's first forty-six years. I have no hesitancy in expressing the opinion that, with the sole exception of Beveridge's *John Marshall*, no other judicial biography gives so complete and enlightening a picture of its subject, and of the Court, during his period as a member. I do regret, however, that the author did not deal more adequately with Miller's life and times before he became a member of the Court. He had not had a long and colorful

career, but he was, nevertheless, quite as much the creature of his period and his immediate environment as was Marshall or Taney.

The cases decided between 1862 and 1890 are discussed carefully and intelligently. In a few instances, as for example the "great" Wabash case, which gets but ten lines (even though Miller wrote the opinion), the discussion is inadequate to indicate the nature of the controversy and the importance of the ruling. But, for the most part, the analyses are thorough; and they exhibit a breadth of background and a maturity of judgment rare among biographers of the justices. Miller's attempt, particularly in the early due process cases and in the Gelpcke v. Dubuque series, to prevent the court from becoming merely the protector of the overly-protected interests is effectively presented. Because the scheme of organization emphasizes particular cases or episodes, the character of certain trends in the growth of constitutional law is not always apparent. This is probably unavoidable in a work of the kind, but I should think that some generalized summaries would be helpful to those readers of the book who are not specialists in the field. It was also, I think, a mistake to omit from the index groups of references under such headings as "commerce" or "contract clause." Even due process is not included there except as it appears under the brief and incomplete citation for the Fourteenth Amendment.

BENJAMIN F. WRIGHT.

Harvard University.

Words That Won the War. By JAMES R. MOCK AND CEDRIC LARSON. (Princeton: Princeton University Press. 1939. Pp. 356. $3.75.)

With a new war in Europe, with censorship bureaus active and ministries of propaganda and information working overtime to maintain morale at home, undermine morale in the enemy country, and get the support, or at least sympathy, of neutrals, the problem of propaganda as an agency of modern diplomacy becomes a matter of first importance. Messrs. Mock and Larson have produced a most timely study of the operations of the first American war propaganda office—the Creel Committee on Public Information. Mr. Creel himself has described the nature and extent of his contribution toward the Allied victory in 1917 in his book, *How We Advertised America;* but here for the first time we have a full length study of American war propaganda by students who have had access to materials not hitherto available.

The authors begin with a running account of the birth-pangs of the Committee on Public Information. They analyze the nature of its organization, the extent of its powers, and the theory of censorship and promotion which those in charge adopted and pursued. They then proceed to an examination and detailed description of the mobilization of opinion

in the United States, the techniques employed, the symbols used, and the channels through which those symbols were disseminated. Here one finds a dramatic account of how the press, the motion pictures, schools, labor unions, and chambers of commerce were mobilized to "hold fast the inner lines." In a day when radio was for practical purposes unknown, the achievement of the Creel Committee in utilizing tens of thousands of four-minute men to deliver approximately one million speeches, and to reach an audience of some four hundred million, is little less than astounding. The organization of parades, exhibits, song-fests, and dramatic skits to bring the war for democracy to the home-front was a task of herculean proportions, ably and economically achieved. The authors discuss also the work of the Committee behind the enemy lines, among the people in Allied countries, and in neutral lands. The book is concluded with a description and brief analysis of propaganda organization for the next war, under the general heading "Blue Print for Tomorrow's C.P.I."

The authors have done such an excellent job that one hesitates to sound a critical note, and yet this reviewer, at least, was unpleasantly impressed with the naïveté with which the authors accept Mr. Creel and his associates as knights in shining armor. Had Mr. Creel set out to write an official *apologia*, it is doubtful whether even a little modesty would have allowed him to indulge in such unstinted praise of his work as he receives at the hands of Messrs. Mock and Larson. One gets the impression from reading the book that the intellectual and spiritual regimentation of a nation is truly glorious, if only it be accomplished by men of patriotic fervor and charming manners.

PETER H. ODEGARD.

Amherst College.

The Pressure Boys; The Inside Story of Lobbying in America. By KENNETH G. CRAWFORD. (New York: Julian Messner, Inc. 1939. Pp. 308. $3.00.)

Mr. Crawford, a member of the Washington press corps, circumscribed by the rules of his craft in his day-to-day reporting, wrote this book to tell the "inside story" of lobbying at the nation's capital.

We are informed that of the 6,000 more or less active lobbyists at Washington, the legal profession enjoys the lion's share of the lobby business; while retired congressmen, cabinet officers, ex-newspapermen, and public relations experts get a considerable slice. However, it is the author's contention that a majority of the "pressure boys" are hirelings of private property interests, that while private property under our capitalistic system is entitled to protection, "it is overprotected by the lobbies to the detriment of a growing majority of dispossessed Americans."

After a brief account of lobbying methods since the founding fathers,

Mr. Crawford launches into a stirring narrative of the lobby behind the utilities, the "super-colossal" movies, shipping, sugar, munitions, "the most powerful and best heeled food and drug lobby," and the anti-New Deal Liberty Leaguers and "Girdlers." Separate chapters are devoted to the groups and individuals promoting the Dies Committee and to the impromptu lobby in opposition to President Roosevelt's government reorganization bill. The chapter entitled "Railroads Unregenerate" is particularly useful as a comprehensive account of modern lobbying techniques, describing the railroad associations which spend about $8,000,000 a year.

The book is largely concerned with those "pressure boys" in and out of Congress who have impeded the progress of the New Deal. Mr. Crawford's "inside story of lobbying in America" does not include the activities and pressure techniques of such powerful groups as the farmers, veterans, and labor; the one short chapter on "The Labor Front" deals with the splitting tactics of the American Federation of Labor. Nor does the author adequately cover—as he very well might have—the lobbying tactics of President Roosevelt's advisers. In addition, it would have been very interesting and helpful to have a fuller identification and discussion of the "lobbyists of the left," described by Mr. Crawford as "able, sincere, and idealistic, but for all that, amateurs"—no match for the lobbyists of business and industry. Mr. Crawford does a good job in telling of the ramifications of the very active "social lobby," and in identifying present, as well as former, members of Congress and political party committees who have used their official positions in their own interest or to aid selfish groups.

Although writing with some heat, Mr. Crawford does nevertheless throw much light upon those pressure groups which made progress more difficult on the internal social front during a crisis period in American history. For this reason, *The Pressure Boys* constitutes a very valuable addition to the more objective and less impassioned studies that have already appeared in the field of pressure politics. It has the additional advantage of having an appeal for a large popular audience because of its journalistic style.

Any subsequent edition of this volume should include an index.

BELLE ZELLER.

Brooklyn College.

Government and Economic Life; Development and Current Issues of American Public Policy. By LEVERETT S. LYON, MYRON W. WATKINS, AND VICTOR ABRAMSON. (Washington, D. C.: The Brookings Institution. 1939. Volume I. Pp. 519. $3.00.)

This first volume of what is planned to be at least a two-volume work

is concerned with "government and business enterprise generally," which connotes government activities bearing on individuals or on broad classes of individuals. Reserved for future analyses are "government and special treatment of private enterprise"—banking, transportation, power, communication, agriculture, coal, and the like—and "governmentally organized production," dealing with public ownership and operation.

Part I discusses basic concepts ("what is economic life," "what is government"), conditioning factors in America (physical, ideological, governmental framework, rationale and critique of private enterprise), and sets forth the plan of the study. This conceptual foundation is hardly more than sketched and serves chiefly to remind the reader of certain broad and generally understood factors in the frame of reference for this problem.

Part II is a discussion of the implementation of private enterprise which includes a descriptive analysis of proprietorship, partnership, and the corporation, supplemented by an appendix of data on corporate enterprise. Bankruptcy and reorganization procedures and the granting and regulation of patent rights are examined historically and in detail. There is a chapter on monetary mechanism looked at from the points of view of implementation and control of enterprise, and a brief one on mechanisms for adjusting labor disputes. The last chapter reviews the services performed by government in setting standards, doing research, and disseminating information.

Part III shifts to an examination of the historical development and present characteristics of regulation. This includes a review of anti-trust law as designed to preserve competition; of common law, the Federal Trade Commission Act, and other acts attempting to elevate the plane of competition; of laws restricting the development of concerted action among workers and laws promoting such action, including separate treatment of the strike and boycott, of union incorporation and the legal status of collective agreements, and of the terms and conditions of employment.

Part IV is a brief summary and interpretation. Appendices include a compilation of Federal Trade Commission orders and a sketch of labor organization in some European countries. Ample footnotes contain the bibliographical references for the present volume.

Controversial as are the topics discussed, the treatment reaches a high degree of objectivity, facilitated by the absence of any attempt to provide solutions other than by reviewing the leading criticisms and proposals current in present discussions of the problems. In general, the volume attempts to discover the evolution of public policy. Such evolution is illustrated in the summary chapter by suggesting changes of a broad and general character in objectives, in methods, and in criteria. In the last-

mentioned, there appear "a diminished confidence in private enterprise as a social instrumentality for the organization of economic life," and also "a diminished valuation of economic freedom as an end in itself"; secondly, "a tendency to identify the special interests of particular groups or industries with national welfare." Finally, "nothing is more important than to realize that the increased assumption of management controls by government confronts legislators and administrators with problems which are more complicated, more technical, and socially more significant than those with which they have been traditionally concerned."

The authors and the Brookings Institution have done a genuine service in bringing us up-to-date with a cross-section view of the relations of government with economic enterprise. The book is strongest in its factual analyses and presentation of trends; the theoretical implications and basic assumptions are less well developed. The second volume may be anticipated with interest if it shall sustain the level of contribution made in the first.

HARVEY PINNEY.

New York University.

Financing Government. By HAROLD M. GROVES. (New York: Henry Holt and Company. 1939. Pp. xvi, 777. $3.75.)

The outstanding characteristic of this new textbook in the field of public finance is the emphasis upon the problem-area approach and the utilization of the argumentative and the interrogatory style as contrasted with the more common (and somewhat outworn) simple narrative or descriptive treatment. To illustrate: The three chapters devoted to the income tax deal with these representative problems: (1) concepts of net income, (2) administration, (3) capital gains and losses, (4) corporate net income tax, (5) taxation of stock dividends, (6) undistributed corporate income, (7) earned and unearned income, (8) methods of evading the federal income tax, (9) jurisdictional problems, and (10) problems applicable to state income. Supplementing a clear statement of each problem, Professor Groves presents arguments for and against alternative solutions. Such a technique avoids a mere encyclopedic recitation of facts and encourages the student to observe opposing viewpoints and to attempt to make his own decisions.

A second feature is the discussion of public expenditures by functional classification instead of the more customary federal-state grouping. Seven chapters cover (1) general aspects of public expenditures, (2) protection, (3) public education, (4) highways and public works, (5) public welfare and health, (6) federal and state aids, and (7) opportunities for economies. Here, also, a conscious effort has been made to develop a critical attitude on the part of the reader.

Also, the general organization of the text is a departure from previous works of the kind. Part 1 consists of only a single chapter on taxation history; Part 2 includes seventeen chapters on types of American taxes (including social security taxes); Part 3 is labeled "Institutions and Problems of the Revenue System as a Whole," but might more aptly be called "legal aspects" inasmuch as its four chapters cover (1) the power to tax, (2) tax limitation, (3) tax exemptions, and (4) intergovernmental relations; Part 4 comprises seven chapters on expenditure, mentioned above for its functional arrangement; Part 5 consists of two chapters on borrowing (compactly done, however); and Part 6 concludes with two chapters on fiscal administration and fiscal policy. At the end is a worth-while appendix by Joseph Rosa on "Public Finance Literature."

The book is expertly written and filled with several structural devices. Transition from one problem to another, and to its constituent parts, is facilitated by three types of print, used for different levels of sub-titles to the reading matter; encouragement of additional reading is provided by a modest use of footnotes; and a generous employment of transitional phrases directs the reader backward and forward through the clear exposition of each problem.

One, however, may call attention to several phrases with which issue may be taken. In expressing the legal stated value of a net worth, writers usually do not pluralize the term "stock," and the individual certificates of ownership are labled "shares" not "stocks" (pp. 198–199). Again, in speaking of the average gasoline tax charged by the several states, one would more likely use the term "modal" than "median," inasmuch as the latter could be very misleading statistically (p. 353). As a minor oversight, in discussing old age assistance, the author neglects to indicate the maximum attached to the aid (p. 374). In the statement that "if our present economic institutions are incapable of operating at full capacity, . . . then it is time to inaugurate some new institutions" (p. 534), one may inquire whether Professor Groves is not assuming a condition which studies of the Brookings Institution indicate may never exist.

The personal philosophy of the author, generally, is concealed from the reader; and the result is a scholarly, unbiased, and well-documented work.

GILBERT W. COOKE.

Bowling Green State University.

The United States in World Affairs in 1938. BY WHITNEY H. SHEPARDSON AND WILLIAM O. SCROGGS. (New York: Harper and Brothers. 1939. Pp. xiii, 436. $3.00.)

The authors of this annual survey of America's relationship to the

international scene have found it necessary to include for 1938 a much more complete analysis of events taking place abroad. Three full chapters are taken up with a discussion of the occupation of Austria, the demise of Czechoslovakia, and the minority and refugee problems of Europe. The rapid march of events in the contemporary world crisis already confers on these chapters, and indeed on the volume as a whole, an historical rather than a topical interest and value. The usefulness of the study is not thereby impaired, more particularly since students of international relations are finding it increasingly difficult to snatch time for re-evaluation of current developments in the light of a time perspective.

A valuable contribution of this nature is made in the introductory chapter, where the authors set down a flashing *vignette* of the twenty years of the post-war era. Taking for a text General Tasker Bliss's prophetic comment on the peace terms—"we are in for a low period, then a high period, then the devil will be to pay all over the world"—the chapter effectively translates the broad post-war movements into the more accurate setting, as we see quite clearly today, of "pre-war" developments. The pertinence of this section to the war aims of the current European belligerents is now even more evident than when it was written.

It may be hoped that, for casual readers, the imagination, insight, and readability of the introduction will serve to lead them on to the more prosaic and detailed analysis and commentary of the year's events that follow. The discussion of Germany's march in Europe is followed by treatment of three vital subjects: armaments, trade policy, and American neutrality. Thereafter, the more regional aspects of American foreign policy, beginning with Canadian-American relations, are considered. The chapter on Mexico, introduced by a brief analysis of the Cárdenas régime, covers the background and current development of the controversial oil and land disputes. These problems, in turn, are related to the broader issues of nationalism and solidarity involved in the general sphere of Latin-American relations, heading up in the Lima Conference. The concluding chapter deals with the significant issues created for the United States by Sino-Japanese hostilities in the Far East.

The extent to which the United States has become a world power, with extensive relationships to the three great regional areas of Europe, Latin America, and the Far East, is clearly illustrated by this survey. Its balanced interpretations and careful factual analyses should make it a useful tool in creating a more intelligent American public opinion on international affairs. For the student and teacher, the bibliography and appendices further enhance its value.

T. A. Bisson.

Foreign Policy Association.

The American Defense of Neutral Rights, 1914–1917. By Alice M. Morrissey. (Cambridge: Harvard University Press. 1939. Pp. xii, 230. $2.50.)

A product of painstaking research and of conscientious effort to interpret the policy of the United States as a neutral during the World War, this little volume is most valuable as a contribution to the study of the legal aspects of that policy. Its interest for the general reader is, of course, enhanced by the occurrence of another European war. The author examines in detail the official and non-official American reactions to such belligerent practices as the Allied "blockade" of Germany, expansion of contraband lists, war zones and mined areas on the high seas, diversion of neutral vessels to Allied ports for search, the German submarine warfare, interference with mails, blacklisting, and bunker control. Extensive use is made not only of official documents, but also of sources indicating the private reactions and attitudes of government officials, and of files of business and other periodicals reflecting public opinion. The treatment of the legal problems involved is sound, although it is hard to see how "the *Zamora* decision was a check to the British" (p. 134) or why it was "beneath the dignity" of the United States to test the British rules in the British prize courts (p. 135).

The main conclusion reached, that the United States went to war with Germany primarily because it passed a moral judgment on her behavior and because it developed a huge interest in the Allied trade but lacked an economic deterrent to going to war with Germany, is well supported by the evidence presented, although fear of possible effects of a German victory upon American interests may be mentioned as an additional cause. No serious effort has yet been made to appraise the merits of this fear, and there is a tendency to underestimate them.

The author accuses the United States of "discrimination" against Germany because of "the failure to apply the same principles toward both belligerents" (p. 199). This charge betrays a certain confusion of thought. Distinction is not discrimination. Is it discrimination to punish murder more severely than theft? It was proper for the United States to distinguish unrestricted submarine warfare from the unlawful acts of the Allies because there was a difference in kind between the offenses, even though it might have been wise, as suggested by the author, to keep American nationals off belligerent vessels and American ships away from war zones. In cases of comparable practices, the attitude toward Germany was by no means more severe than that toward the Allies. This was true, for instance, in regard to contraband lists, mine-laying, and interception of mails. It is correctly pointed out that the possibly erroneous position of the United States on armed merchantmen had little to do with the outcome of the submarine warfare controversy (p. 201). The author

makes much of the failure of the United States to protest early in the war against the British mining of the North Sea (p. 16), but neglects to note the fact that at the Hague Conference of 1907 the American delegates successfully opposed the attempt, favored by the British, to prohibit the laying of mines outside of territorial waters. It is doubtful, in view of the vagueness of the legal rules on the subject, whether the United States could have taken a stronger stand against changes in contraband lists, as suggested by the author (p. 41). No attention is paid to the partly successful resistance of the United States to the Allied practice of removing enemy nationals from neutral vessels on the high seas (e.g., in the Piepenbrink case) or to the concession made by the United States to Germany in the matter of destruction of regularly captured neutral vessels. It is made clear that the officials responsible for the American policy were mostly not impartial in thought, but there is no evidence that this mental attitude, apparently shared by the public, led to any violation of neutral duties by the United States. Interestingly enough, the Allied measures which provoked the greatest indignation in the United States were those to which little or no legal exception could be taken, such as blacklisting (p. 146). On the other hand, the data presented indicate that any attempt to "protect" American trade by resorting to retaliatory measures against the Allies would have met with the determined opposition of American traders, who believed, not unjustifiably, that American trade would be hurt more by such "protection" than by the Allied practices themselves.

In spite of the fact that certain judgments of the author are open to criticism, her work stands high among the recent writings on the subject. It is more balanced and less misleading than the widely-read volumes of Millis, Tansill, and other authors affected by the storm-cellar stampede of recent years, and yet its solid merits of scholarship are embellished by skillful condensation of the material and an easy, readable style.

OLIVER J. LISSITZYN.

Council on Foreign Relations.

Can America Stay Neutral? BY ALLEN W. DULLES AND HAMILTON FISH ARMSTRONG. (New York: Harper and Brothers. 1939. Pp. 277. $2.50.)

For the third time since 1789, this country confronts the problem of staying out of a European war while seeking to maintain its rights as a neutral. As President Roosevelt put it in his message to Congress on September 21, " . . . our position in world affairs has already been altered." It is to that "altered position" that the authors devote themselves —with insight and incisiveness—in this brief but trenchant analysis of the recurrent problem of neutrality.

They review the present issues against the background of 1793 and

1914. Greater attention to the earlier phase would have been useful today. For, as they emphasize more than once, neutrality is a matter of "policy, not law." And they point out how "from the very beginning [in 1914] our sympathies were engaged . . . What we should plan to do, if our principal desire is to avoid war, is not to let our national honor get tied up with exercise abroad, in war zones, of any preconceived rights which are not in fact essential to our national existence, and not to let hasty sentiment overpower reason in a just appraisal of our long-range interests." They reject the hypothesis of the Nye Committee as to the "overpowering" in 1914. But they do not offer any very clear analysis of the origins and distortion of "sentiment" in wartime—by propaganda as well as by instinct. There lies the major issue today; it would have been useful to have the authors' more thorough explanation of the process.

They trace briefly but adequately post-war American foreign policy and the emergence of the "New Neutrality" policy in Congress from 1935 to 1939. When they come to the present crisis, they offer prescriptions with which not every one will agree. To this reviewer, they seem for the most part eminently sound. Among major controversial issues, they favor repeal of the embargo, the application of the "cash and carry" principle, and the ban on loans and credits (with reservations). They think the "trade-at-risk" policy and a complete ban on travel on belligerent merchantmen or in war zones difficult to enforce. They believe executive discretion necessary in applying any neutrality law (or policy). They urge "hemisphere solidarity" in elaborating and applying a common American neutrality policy. In the final analysis, however, we "cannot legislate [our own] peace"; we must create the conditions for its continuance through some sort of world order.

A number of documentary and statistical appendices add greatly to the value of this study. Its timeliness in appearance is marred by none of the frequent defects of contemporaneous writing. The volume will remain an important landmark in the analysis of law and policy in this significant area—and period—of American diplomacy.

PHILLIPS BRADLEY.

Queens College.

Financial Questions in United States Foreign Policy. BY JAMES W. GANTENBEIN. (New York: Columbia University Press. 1939. Pp. xvii, 264. $3.35.)

The financial power of the United States, symbolized by upwards of sixty per cent of the world's gold, has become a factor of no small importance in world politics. The author of this book, a member of the foreign service of the United States, has produced a study of the financial aspects

of our foreign policy which is, therefore, most timely and useful to students of international relations. The questions with which the book deals arise from foreign exchange instability, exchange control, intergovernmental debts, foreign dollar bonds in default, international double taxation, and governmental financing of foreign trade.

The sections dealing with the questions of foreign exchange and defaulted loans are especially complete and informative. Mr. Gantenbein reviews the causes of foreign exchange instability and explains the efforts to moderate fluctuations through stabilization funds and international agreements. The operation of the United States Stabilization Fund is significant in this connection, but the subject is treated rather briefly in consideration of its importance. This is partly due to the secrecy with which the fund is enshrouded. Of particular interest is the author's account of efforts that have been made to promote Pan-American cooperation in attaining greater monetary stability and his statement of the possibility that some kind of gold standard may be devised for the Western hemisphere. An excellent description of foreign exchange restrictions, maintained by more than one-half of the countries of the world, is included; and the policy of the United States in endeavoring to modify the effects of these restrictions is set forth. The chapter on defaulted dollar bonds describes the extent of the defaults, the policy of the Department of State in leaving the discussion of such matters primarily to negotiations between the parties (representatives of American bondholders and foreign debtors), and the organization and work of the Foreign Bondholders' Protective Council. A chapter is devoted to the experience of the United States in attempting to eliminate or reduce the burdens of double taxation on American business abroad. The devices employed by the government are legislation, with reciprocity provisions, and bilateral treaties.

That part of the book which deals with interallied debts represents less of a contribution than do other sections, since the subject has already been well covered and at present seems to belong more to the field of history and experience than to that of pressing financial questions. In his treatment of United States financial controls, such as customs collection arrangements, in certain backward countries, the author could profitably have expanded his description beyond the footnote devoted to the problem. The question of allocating space to this or that subject is, however, largely a matter of personal opinion on which no two people could be expected to agree. The book is altogether a valuable contribution in an increasingly important field of American diplomacy, and political scientists are very much indebted to Mr. Gantenbein for his authentic and thoroughly documented volume.

BENJAMIN H. WILLIAMS.

University of Pittsburgh.

National Sovereignty and International Order. By George W. Keeton. (London: Peace Book Company. 1939. Pp. 186. 7s.6d.)

Professor Keeton approaches the problem of establishing international order from his dual position of professor of English law in the University of London and director of the New Commonwealth Institute. This volume, appearing a few months before the outbreak of war, reflects the anxious consideration with which British intellectuals have analyzed the failure of the League of Nations. National sovereignty is held responsible for the initial error of failing to endow the League with adequate sanctions (international police force), and for the unwillingness to apply force in the Vilna and subsequent disputes.

Sovereignty, as the "juridical disguise" of national irresponsibility, has been devised and patched by the international lawyers from Grotius to Hall; but the attacks upon the concept by Kelsen, Duguit, and Laski afford a more satisfactory theoretical basis for appreciating the emergence of "a new allegiance, transcending that due to the state." "The attack on sovereignty has at last spread from the study to the newspaper." Public declarations of British ecclesiastical dignitaries and of trade unions, questioning the government's purpose in rearmament, clearly reveal a loyalty to a "higher law" of the international community.

Governments, as distinguished from peoples, are guilty of duplicity in permitting "national interests" to prevent observance of their League obligations (Sir John Simon receiving his usual excoriation), and are guilty of stupidity in failing to realize that these obligations are in accord with the true interests of the nation. The addition to the Council and Assembly of a third body of popularly elected representatives is regarded as essential to the formation of any true international opinion; but it is recognized also that a League based on popular representation alone would exert little more than moral force.

The disintegration of the Empire into the Commonwealth of Nations is not interpreted as a discouraging manifestation of nationalistic desire to throw off external rule. Looking forward to eventual union rather than "Union Now," Professor Keeton presents a minimum program for League reform which includes a membership based, not upon the adoption by a state of the forms of democracy, but upon its willingness to accept decisions of neutral tribunals; international administration of colonies; and universal economic, and regional military, sanctions. The volume implies that a change in intellectual and political leadership would suffice to overcome the popular aversion to military sanctions, as well as the nationalistic aversion to what is regarded as external control of vital interests.

H. Schuyler Foster, Jr.

Ohio State University.

Security—Can We Retrieve It? By Sir Arthur Salter. (New York: Reynal and Hitchcock. 1939. Pp. xvi, 391. $3.50.)

The manuscript of this book was completed five months before the present war broke out and less than five months before the Russo-German *rapprochement* of August 23, 1939. Time and events have left behind discussions (as of Easter, 1939) of the inevitability of this war. Not so, however, with considerable portions of the book which attempt to assess America's responsibility for Europe's chaos. Sir Arthur's is probably only the opening gun of a renewed campaign to convince Americans that England's cause is our cause. The last sentence in the book reads: "A cause worthy of Britain must be more than Britain's cause." On page 10, one learns that "the vast American experiment"—all that we have accomplished as a nation—"was perhaps only possible because all this internal progress took place behind the shelter of an international order constructed and sustained by others," more specifically "the British people and their sea-power" (p. 9).

Of course, we had already been informed of this by Mr. Walter Lippmann in the July, 1937, issue of *Foreign Affairs*. But Sir Arthur is not sure that we have learned our lesson, acknowledged our debt (small *d*), or drawn the correct conclusions as to our responsibilities. So throughout the book he reminds us—in a most kindly and patient manner—that "America's abstention changed fundamentally the League's ability to enforce its policy" (pp. 113, 145, 155); that America is responsible for Poincaré's repressive German policy (that would seem to make us responsible for Hitlerism, too), since, if America had been in the League and had ratified the triple alliance with France, "it is probable" that the French would have supported Briand's policies instead of those of Poincaré (p. 112); that we failed to realize the difficulties confronting European statesmen, "especially after America's own withdrawal" (p. 42); that the colonial problem is "inescapable," and "what America has to give is not merely criticism but a constructive contribution" (p. 44); that the Good Neighbor policy is all very well, but "a good *citizen* is one who, in addition, takes a share proportionate to his ability and opportunity in constructing and helping (p. 45) . . . etc., etc.; and finally, if I do not misread the author, that American criticism of the failure of Chamberlain's foreign policy is psychologically explainable as a desire "to get an alibi for one's self" (p. 38). One is tempted to suggest that British propaganda will lose much of what it has already gained in America if statements like these continue to appear.

Other sections of the book are neither tiresome nor arrant nonsense. As in *Recovery—The Second Effort*, Sir Arthur excels in his thumb-nail sketches of men of affairs. Baldwin, Simon, Hoare, and Chamberlain are etched with unforgettable clarity and mordant pen. In fact, the most in-

teresting part of the book is Part III, appraising British national strength and administrative and political bungling in the crisis years before this war. The volume concludes with a Draft Manifesto of British Policy which will appeal to liberals, but must needs be postponed for some time.

HERBERT W. BRIGGS.

Cornell University.

Revisions of the Treaty of Versailles. BY WALDO E. STEPHENS. (New York: Columbia University Press. 1939. Pp. XII, 281. $3.00.)

This book is a first-class piece of workmanship which has little, if anything, to do with its title. To reverse the author's preface, "anything that is worthy of praise" is, in the reviewer's judgment, due to Mr. Stephens, and "full responsibility for the mistakes" belongs to the misguidance he received from advisers.

The reader is entitled to expect from the title that the book would deal with the changes brought about by unilateral German action and by the ordinary evolution of any treaty substance. With the exception of Part VIII (reparation), the entire text is devoted to the changes effected by stipulated procedures, in executing which "there can be no revision" (p. 4). Moreover, aside from reparation, the only "revisions" studied are the amendment of the Covenant of the League of Nations and the Constitution of the International Labor Conference, to which the signatories of the Treaty of Versailles were not the exclusive parties after January 10, 1920. All these chapters are excellent in themselves, but Mr. Stephens was probably induced to do them to satisfy an adviser's curiosity more than his own accurate sense of hewing to the line. Of eleven chapters, four relate to general considerations, four (filling half the book) to the two institutions which were born only of the treaty body, and three to changes in Parts VIII and XII of the Treaty of Versailles.

The question of revision of the Treaty of Versailles is well worth studying either as a problem of politics, a technique in political science, or an inquiry into the functioning of conventional law. As good a workman as Mr. Stephens could have done any or all. If he had been permitted to pursue his titular subject, he would have delineated the fields of revision, execution, supersession, and substitution of provisions by subsequent action. He would have examined especially the developments under many articles; Eupen-Malmédy (34–39), the Rhine occupation (42–44, 428–433, Locarno), the Saar (45–50), Austria (80), Upper Silesia (88–90), Memel (99), German colonies (118 and mandate treaties), Part V (execution, draft convention of December 9, 1930, declaration of December 11, 1932, negotiations, German action of March 9, 16, 1935, Anglo-German

naval agreement of June 18, 1935, etc.), Part VII (failure to try Kaiser), and so on.

The very slight attention actually given to the real substance of treaty revision (Versailles or other) precludes the "conclusions" from being conclusive. Certainly no "right to require a release from its legal commitments" belongs to any party to a treaty, but only a right to negotiate for such release. The idea that Article 19 of the Covenant of the League of Nations would have had a different legal significance if attached to Article 10 rather than as a separate provision (13–19, 256) is asserted, but neither discussed nor proved. It is a shame that the excellent work of this monograph was directed so slightly at the relevances of "revision" that it makes no real contribution. In saying this, the reviewer hails Mr. Stephens himself as a genuine and capable scholar.

DENYS P. MYERS.

World Peace Foundation.

Germany's Colonial Demands. EDITED FROM THE REPORTS OF THE OXFORD UNIVERSITY COMMONWEALTH GROUP BY A. L. C. BULLOCK. (London: Oxford University Press. 1939. Pp. viii, 266. $2.75.)

Without seeking significantly to break new ground, this book presents a useful and moderate re-examination of the general round of problems involved in Germany's demand for the return of her former colonies as that demand impinges on Great Britain and the Dominions. It is a product of the Oxford University Commonwealth Group, an organization of Oxford undergraduates representative of various sections of the Empire and Commonwealth for the investigation of problems of common interest in association with a few senior members of the University. One of the most interesting aspects of this joint product is the admitted failure to secure agreement between the South Africans and the remainder of the group. The South Africans, while disliking to see Germany established as close as South West Africa, or even Tanganyika, found points of identity in their own and the Nazi racial views which made it impossible for them to join in ruling out colonial return on the ground of potential racial discrimination.

This difference of opinion does not, however, come to be of much practical significance, because it was not difficult for the group to find enough other grounds on which to condemn a policy of colonial appeasement. A preliminary survey of the circumstances under which the colonies were transferred to Allied control in the mandates system leads to the conclusion that Germany's legal claims are without validity. In the succeeding section there is a restatement, against the general background of the rôle of colonies in the world's economy, of the by now familiar arguments as to the inability of the colonies to relieve Germany's population pres-

sures or to meet her raw material needs. Conceding that Germany is confronted by very real difficulties, and that Britain, clutching her mandates tightly to her, is not in a strong position to deny their value, the group contends that the answer is to be found, not in the type of intensification of exploitation and economic discrimination which would accompany a Nazi restoration, but in a freer world trade and an extension of the mandates principle.

With the outbreak of war, various aspects of the problem have radically changed, but the basic issues remain. The book can still be recommended both for the statistical and political information which it contains and for the general sanity of its outlook and conclusions.

RUPERT EMERSON.

Harvard University.

The Evolution of the British Empire and Commonwealth. By SIR JOHN A. R. MARRIOTT. (London: Nicholson and Watson. 1939. Pp. xv, 387. 12s.6d.)

In this volume, Sir John A. R. Marriott, author of numerous books and articles on English politics and on various aspects of British imperial relations, traces the evolution of the British Empire and Commonwealth from the seventeenth century to the present time. After a brief account of English explorations and settlements in America, the struggle in America and India with the French, and the dismemberment of the First Empire as the result of the American Revolution, the volume proceeds with the Second Empire, which was built on the ruins of the first. Here special attention is given to the evolution of Canada, Australia, New Zealand, and South Africa into self-governing dominions. Although the internal political developments of the Dominions are treated briefly, the main concern of the author is with the problems arising out of Dominion demands for participation in the control of intra-imperial and Empire foreign relations. There is a suggestive discussion of the influence of the World War, both in promoting nationalism in the Dominions and at the same time in strengthening the bonds of Empire. A special chapter is devoted to Anglo-Indian developments since 1858.

The volume does not make an important contribution to the study of the British Empire. The information that it contains is in the main available elsewhere. It does, however, furnish in a convenient, if not in a specially attractive, form much important information on what is perhaps the most important, and surely the most complex, aggregate of political relationships in the world today. It may be added that the book would have been better if unimportant details had more often been sacrificed to the fuller treatment of essentials.

Sir John Marriott has long been a student and an admirer of the British imperial system. More than fifty years ago, he tells us, his interest in the subject was captured by Seeley's famous lectures, *The Expansion of England.* Although he is by no means an uncritical defender of the system, adverse criticism is subordinated to approbation. His concept of Britain's mission is indicated by the following statements near the close of the book (p. 352): "Our primary duty in Africa, as elsewhere, is admittedly toward the native inhabitants of the territories acquired. But there is another. The British Empire holds its vast possessions in trust on behalf of civilization, and in particular on behalf of the industrialized countries, which are increasingly dependent upon tropical lands and peoples for the supply of essential raw material, as well as for markets in which to sell their own manufactured goods."

ELMER D. GRAPER.

University of Pittsburgh.

Die Völkerrechtslehre des Nationalsozialismus. BY EDUARD BRISTLER. (Zürich: Europa-Verlag. 1938. Pp. 230.)

In this critical review (prefaced by Professor Georges Scelle, of the University of Paris), the writings of National Socialist theorists on international law are placed in the context of the "racial" theory of law, which in turn is part of the National Socialist philosophy of history seen as the struggle among human races.

After a well-documented survey of the relevant literature, the author concludes that there is, not *one* National Socialist theory of international law, but *several*, which tend, on the whole, to show the same vagueness as Hitler's numerous utterances on foreign policies on which they are based. In addition to a common point of departure (the Treaty of Versailles) and a singleness of purpose (the justification of Germany's foreign political demands), Bristler notes certain similarities of argumentation in the several writings which permit their classification in two different schools. The one, consisting mainly of men with reputations established prior to 1933 (incidentally, raising the question of their intellectual honesty), builds up a system of international law on the basis of "natural law" among states and of fundamental rights (*e.g.*, of respect, equality, survival, independence) possessed by them—or by those at least that are worthy of existing. Only a dutiful attempt is made by these writers to append racial doctrines to the body of their theories. The other school, represented largely by the younger generation anxious for a career, attempts to build international law on a racial basis. This raises the question of how a universally binding international law is reconcilable with the racially determined, and hence divergent, legal convictions of the several nations, and of necessity leads to the conclusion that, at best, nothing but

contractual international law among nations of like racial origin is possible. Emphasis by both schools on the individual state's ultimate freedom of decision, and introduction of such undefinable, extra-legal categories as "national life" or "existence," point to the readiness of the theory not to let German international practice be impeded at any time by legal obstacles.

Actually, the author finds, both schools are merely the correlates of two successive stages in Hitler's foreign policies, the first aiming at the attainment of legal equality for Germany, the second directed toward the annexation of territories claimed as rightful parts of Greater Germany. Conceived to serve the political ends of National Socialism, like all sciences in Germany today, those theories can hardly be considered contributions toward the solution of the general problems of international law.

GERHARD KREBS.

Western Reserve University.

Nationalism and Reform in India. By WILLIAM ROY SMITH. (New Haven: Yale University Press. 1938. Pp. vi, 485. $5.00.)

In his introductory chapter, the author briefly traces the evolution of the benevolent despotism in its constitutional and administrative aspects under the East India Company and then under the Crown from 1858 to 1917. A useful summary is included of the position of the Indian native states. The development of the Nationalist movement is then outlined from the foundation of the Indian National Congress in 1885 to the end of the Great War. This is followed by an analysis of the Montagu-Chelmsford reforms, the first non-coöperation movement, and the gradual evolution of the Congress party into a (temporarily) semi-constitutional opposition. The next 200 pages are devoted to an examination of Indian grievances; and this is followed by a careful study of the relations of the Moslems with the Hindus and the British, and of the abortive attempts to compromise the Hindu-Moslem conflict. The author then returns to the political and constitutional history of India with an account of the Simon Commission's report, the Round Table Conferences in London, and an unfinished chapter on the constitution of 1935. The bibliographical note is also unfinished.

Perhaps the most interesting chapters are those which examine Indian grievances. Professor Smith concludes that the charge that there is a heavy drain of revenue to Great Britain has little substance, and Nationalist economics come in for some rough handling. He believes that the history of tariff legislation affords somewhat more ground for complaint, but that Indian political leaders have been far more concerned with the welfare of the manufacturer than of the consumer. He condemns the land tax and suggests that as a substitute the theories of Henry

George should be applied to urban land values and that the admittedly inadequate rates of income tax should be raised. He does not, however, discuss the very serious practical difficulties which these changes would entail. A government entirely controlled by Indians might tackle the problem successfully; but the British experiments with the income tax show that there are limits to the power of an alien government when confronted by strong popular opposition. The charge that too much is spent upon the army is examined carefully, and the author concludes that, given the unique problems of India, the expenditure is regrettable but unavoidable. He considers that the principal political grievance, the exclusion of Indians from the higher posts in the government services and the army, was justified prior to 1920, but that Indianization is now going on as rapidly as is desirable. Post-war restrictions upon personal liberty he shows were largely the result of terrorist and communist conspiracies. There is also a detailed account of the political and economic disabilities of Indians in the Dominions and crown colonies, and their Indian repercussions.

The book is based upon wide and careful reading, supplemented by visits to India in 1919–20 and later to the various Dominions and crown colonies where the presence of Indian immigrants has caused friction. Professor Smith's treatment of his subject is painstaking, accurate, and detailed, and his book should be very useful as a work of reference. With a few minor exceptions, he is exceedingly impartial; indeed at times one wishes he had carried his objectivity to less extreme lengths. The rights and wrongs of India have been debated so hotly that one would welcome more frequent expressions of opinion from a scholar who has devoted a quarter of a century to study of the subject.

LENNOX A. MILLS.

University of Minnesota.

Democracy Today and Tomorrow. BY EDUARD BENEŠ. (New York: The Macmillan Company. 1939. Pp. 244. $3.00.)

This book is a restatement of the democratic creed by one who has been, throughout his life, a consistent believer in it. Dr. Beneš is convinced that no one can understand what this creed really means except by knowing its historical background. Hence the principal aim of his book is to show that democracy has reached its present critical situation as the result of forces which came into existence a long time ago and have merely become stronger in recent years.

To establish this thesis, the author undertakes a somewhat extended historical survey, with the breakdown of feudalism as his starting point. He shows how the French Revolution tried to build, on the ruins of the old order, a new society which would combine democracy with national-

ism. In this it did not wholly succeed, for the economic freedom which the Revolution sought to establish became the groundwork of a capitalistic industrialization which in turn stimulated the rise of socialism and communism. These, again, have produced their counter-reactions.

The French Revolution, moreover, gave new formulation to nationalistic ideals which became the basis of the new chauvinism at the end of the nineteenth and the beginning of the twentieth centuries. It also created popular mass armies in place of feudal levies and mercenaries, thus making warfare, for the first time, a conflict between whole peoples. Finally, out of the French Revolution, came the first of the modern totalitarian dictatorships. Thus, Dr. Beneš believes all our present disagreements over political ideas and systems had their origin in the great French upheaval of a century and a half ago.

The conflicting political ideologies of the World War contained nothing that was substantially new at the outset, but during the course of the struggle the Allied Powers expanded their objectives to include not only the preservation of democracy, but the destruction of militarism and the liberating of oppressed nations. The difficulties which they encountered in translating such ideals into actualities, through the medium of a peace treaty, are outlined clearly by the author. The mistakes of the post-war democracies are enumerated. The weaknesses of democracy, as a governmental art, are set forth. A chapter is devoted to an autopsy on the League of Nations. The failure of the League and the collapse of the new European democracies in the era following the war involved, in the author's words, "a return to the politics of the Middle Ages."

Now much of this is a repetition of what others have often said before, and sometimes more interestingly. It is largely an introduction to what Dr. Beneš has to say in the concluding chapters of his book about the fundamental concepts of fascism, national socialism, communism, and democracy. Out of this analysis evolves his conclusion that democracy cannot exist side by side with any form of dictatorship. One or the other must succumb before the world can have any assurance of peace or goodwill among men. As to the ultimate outcome of the irrepressible conflict between the two, Dr. Beneš has no doubts. "Democracy cannot die. Freedom cannot die. The fight for the free development of the human personality cannot cease. This is in the nature of man and of human society."

But democracy, in the course of its survival, will have to change its ways. The system of political parties, the methods of selecting leaders, the supervision of the press—these and many other things will be considerably reconstructed, although the author does not venture to set forth in detail in what manner. A reconciliation between nationalism and internationalism will also have to be effected by some form of collective

security, probably by reviving the League of Nations or something like it.

Students of political science will find in this volume little that is new or striking. On the other hand, much that is already familiar to them has been recast into concise and cogent form. Dr. Beneš has compressed a great deal into his 240 pages. He has shown quite extraordinary skill in presenting his ideas without wastage of words. Consequently, those who desire a general view of a large and complex subject, a silhouette without warts or wrinkles as it were, will find the book very much to their liking.

WILLIAM B. MUNRO.

California Institute of Technology.

What Is Liberty? A Study in Political Theory. By DOROTHY FOSDICK. (New York and London: Harper and Brothers. 1939. Pp. x, 194. $2.00.)

Under present conditions, one is tempted to ask: What is meant in concrete detail by the word "liberty"? In our atmosphere of war and perfervid affirmation and denunciation, the study under review strikes a welcome note of objectivity. The book has an element of calmness, and it seeks to describe the content of liberty; but it hardly reaches a level of objectivity that will be accepted by all or a full and coherent statement of the author's own philosophy of liberty.

With a well-organized treatment, Miss Fosdick first seeks the core of meaning of liberty. "A man has liberty in an area of experience when various choices are open to him; he has *a* liberty when there exist two alternatives between which he is able to choose" (p. 24). "Liberty implies an absence of restraint both on what a man does and on what he may incline to do." But liberty is a protean disguise; liberty is often identified with special forms of social environment, such as a means or power to act, an institutional system like private property, or some principle such as equality or security. Liberty may likewise be identified with a kind of life, such as being one's self, being one's good self, obedience to law, or absorption into the social whole.

The realism of this volume appears in the criticism of these identifications. A sturdy effort is made to see men as they are (p. 118), but a fuller use of psychology would no doubt have been of assistance in developing this criticism. Individuality, the author concludes, is the basic claim that is made in the name of liberty (p. 157), but this claim must be made in a context of order. Only the most general suggestions are offered as to what this context of order is, and certainly the rôle of the state is barely analyzed (pp. 167, 174). A longer volume would have enabled the author to enter into these and similar questions.

FRANCIS G. WILSON.

University of Illinois.

Marxism; An Autopsy. By Henry Bamford Parkes. (Boston and New York: Houghton Mifflin Company. 1939. Pp. 300. $3.00.)

Dr. Parkes seeks to show that Marxism does not favor, and even prevents, a truly progressive policy aiming at liberty and equality. This thesis is developed in both negative and positive ways. First, the author demonstrates that Marxism, by its whole character, cannot bring about real democracy; secondly, he develops a positive politico-social program claiming to be based on specifically American Jeffersonian traditions; and concretely, regulation and lowering of the interest rate, abolition or decrease of unearned income, and introduction of a property right for jobs in industry are proposed. This program, sketched on pages 211–256, seeks to secure coöperation between the workers and the middle class as well as the farmers, and is directed against the danger of a dictatorship by bureaucracy, which is a necessary consequence of socialization. According to the author, it will help to restore a free market mechanism, liberated from the chains of monopolies.

The scholarly value of the book is concentrated in its critical analysis of Marxism, developed in the first five parts. This autopsy is given, not only as an historical description of the Marxist movement, but also as a systematic dissection of the most important Marxist ideas. Dr. Parkes proves that the basic concepts of Marxism do not correspond to reality. Therefore the Marxist movement either collapses or utilizes methods opposed to its theories, thus creating a politico-social order antagonistic to its aims. The proletariat is not the revolutionary proletariat, as it is pictured by the Marxists—the "trade-union mentality" cannot be explained simply by some external influences. The confiscation of the means of production by the state produces a dictatorship of the bureaucracy, opposed to the announced movement towards the withering away of political coercion. The overlooking of the importance and the specific character of the middle class groups makes revolutionary Marxism, represented today by communism, only a pretext for successful fascist movements. The Russian success is, according to Parkes, only a proof against Marxist theories; the conditions in Russia did not correspond to the Marxist presumptions for a successful socialistic revolution.

The importance of this book is not determined by the number of original ideas expressed in it. Dr. Parkes himself emphasizes how much he is indebted to Borkenau, for example, for his description of the activities of the Third International. Nevertheless, the volume is useful for its systematic summaries of critiques opposed to Marxism. Dr. Parkes writes clearly and concisely, simplifying in a pleasing manner issues sometimes artificially complicated.

If a new edition is soon to be published, one could wish that Dr. Parkes would analyze in greater detail the reasons for the crisis of the reform

wing of the Marxist movement in many countries. It would also be important to investigate the originality (or lack of it) of Lenin's theory of imperialism. The books and authors quoted in the notes might well be amplified; neither Kautsky nor Hilferding nor Otto Bauer is mentioned, nor are books like Rosenberg's *History of Bolshevism* and Goetz Briefs' *The Proletariat* utilized. But these are minor faults which do not detract from the generally adequate character of the work.

WALDEMAR GURIAN.

University of Notre Dame.

Antistatism; An Essay in Its Psychiatric and Cultural Analysis. BY MOUSCHENG HSITIEN LIN. (Washington, D. C.: The William Alanson White Psychiatric Foundation. 1939. Pp. 87. $1.50.)

This essay defines the historic state as "a territorial human society which exercises through a government supreme coercive power over individuals and groups within it for the purpose of regulating and maintaining a general hierarchy of social values and institutions." Antistatism is then projected as a system that rejects the historic state. Antistatism opposes the coercive power of the historic state which is usually exercised through its civil and military officers, and instead of militarization and bureaucratization of social life, advocates a spontaneous society. Secondly, antistatism rejects the hierarchical nature of the historic state with its differentiation of society into higher and lower classes and ranks. Instead, it champions an equalitarian distribution of social values, especially those of property and prestige. Finally, antistatism denies or implies a denial of the territorial basis of the historic state. Instead, it makes a plea for a universal community which transcends national and physical boundaries.

The author makes a study of five antistate systems. The Taoist theory of the state is represented by the writings of Laotzu; the Cynic-Stoic theory of the state is represented by the work of Zeno; the Liberal theory of the state is seen through the Rousseauan doctrines; the Communist theory of the state is set forth through an examination of the doctrines of Marx and Engels and secondarily through the contributions of Lenin and Trotsky; and the Anarchist theory of the state is portrayed through the theories of Proudhon and the ideas of Bakunin, Kropotkin, and Tolstoi. Each of these antistate systems is studied separately from the standpoint of the philosophy of each. This is followed by a "scientific" study of antistatism based on a comparative analysis.

The author feels that through such treatment one is able to arrive at some working hypotheses regarding the nature, the goal, and the method of antistatism and regarding the emergence and propagation of this system. At least two important deductions should be pointed out. The author maintains that antistatism "generally originates in the zone of the

severest tension, from which it spreads to other tensional areas and throughout the social structure." The points of severest tension lie in the relations between a rising class and its superior classes that are not permeable. "Other conditions remaining as they are, when a rising class is blocked in its attempt to climb the social ladder by the higher classes, it tends to reject the existing state." The personality of the antistatist can be characterized by the way in which he meets these social blockages on the psychological field. Four main forms of reaction toward blockages . . . are regressive, progressive, introversive, and extraversive.

The author does not claim to know all of the laws of antistatism, saying that they are deeply rooted in the psychological recesses of man and intricately related to the total social pattern. However, the essay is of striking importance to the field of governance in this day when we are fumbling for a workable and socially acceptable theory of the state.

CATHERYN SECKLER-HUDSON.

The American University.

The Problem of Social Change. BY NEWELL LEROY SIMS. (New York: Thomas Y. Crowell Company. 1939. Pp. 477. $3.50.)

Science and Social Change. COMPILED BY JESSE E. THORNTON. (Washington: The Brookings Institution. 1939. Pp. 577. $3.00.)

Professor Sims divides his textbook into four parts entitled "Historical Aspects of Social Change," in which he discusses the rise and development of the concept, general attitudes toward it, and efforts to discover its laws; "Natural Factors in Social Change," such as biologic, racial, and geographic determinism; "The Nature of Social Order and Change"; and "The Process of Social Change," including an analysis of automatic, purposive, and revolutionary processes as well as the idea of social progress. In the last chapter he summarizes his conclusions as follows: "The primary cause of the cyclical process appears to be the rise of attitudes unfavorable to the socio-cultural situation and induced by its failures. These attitudes, ill-defined at the outset, grow into conscious opposition to the outmoded organization and its sustaining ideology. Preference is thus stimulated for new, different, or antithetical forms, ideas, and behavior patterns. As these emerge and eventually supplant much or all of the established system, a new harmony is approached. The stability thus attained runs its course in turn, breaks down, and gives way to a new reaction" (p. 428).

The inadequacy of this formula becomes evident when the author seeks to apply it to an analysis of a specific period of history, the centuries of Western civilization since the Reformation. All that the formula really states is that attitudes change because of changes in conditions, which in turn are due to changes in attitudes. And so we are left in an intellectual

tail-spin. Applying this rather nebulous formula, the author concludes: "Forms which the masses believe to be better suited to the altered conditions will therefore naturally appear. In fact, they had already done so in the Soviet, Totalitarian, and Corporate states . . . attempts at a better adaptation of means to ends in social organization. . . . From the limited democratic state to the all-in-all state is the obvious trend. And the people will apparently approve it and like it, for they have been prepared for it . . . " (p. 446). It is quite probable that others using the same formula would arrive at different conclusions. Professor Sims is at his best when he is summarizing the social change theories of others and subjecting them to criticism. His treatment of Marx, Darwin, Pareto, and Sorokin are especially good.

Mr. Thornton's volume of readings comprises excerpts from forty-nine lectures, orations, books, addresses, and articles by an imposing array of physical and social scientists. As stated by the compiler, his hope is "that all who read it may be helped to adjust themselves more adequately and more sanely to this world so changed by science and invention." It is doubtful whether this hope will be realized. Although the volume is neatly organized with headings and sub-headings, it is difficult to perceive the trend of the argument. There are neither notes nor introductions to assist the reader in making transitions from one excerpt or section to another. In proportion to the number of words, the quantity of information is slight.

The authors apparently agree that we are in some sort of a crisis, that there has been remarkable scientific progress, that social science has not kept pace with technological developments, and that more emphasis should be placed upon training citizens to think scientifically. But the nineteen questions raised by Professor Merriam in his discussion of *Government and Society* remain unanswered.

Thomas Babington Macaulay finds that "there is constant improvement precisely because there is constant discontent" (p. 465). James Harvey Robinson thinks that "if certain seemingly indisputable historical facts were generally known and accepted and permitted to play a daily part in our thought, the world would forthwith become a very different place from what it now is" (p. 468). Harold G. Moulton asserts that "only by everlastingly improving technical processes and lowering the costs of production can we obtain progressively higher standards of living" (p. 477). George W. Gray opines that "the fact that prolactin seems to induce a brooding instinct in fowls and parental solicitude in rats suggests that mother love may bear some relation to a hormone; and if so sacred and instinctive a quality is thus influenced, then, perhaps, we may with reasonableness look for biochemical activators of the humane traits of tolerance, pity, neighborliness, and coöperativeness" (p. 486).

Although Karl T. Compton argues that social progress calls for men with an engineering type of training, this reviewer is disposed to agree with Robert E. Doherty when he states that "one of the greatest educational fallacies I know is the assumption that the ability to solve problems in the field of physical science implies such ability in social and economic affairs" (p. 520).

HARWOOD L. CHILDS.

Princeton University.

Punishment and Social Structure. BY GEORG RUSCHE AND OTTO KIRCHHEIMER. (New York: Columbia University Press. 1939. Pp. xiv, 268. $3.00.)

When the German government closed the International Institute of Social Research in 1938, Dr. Rusche had virtually completed a historical survey of the interrelationship between punishment and the labor market since the later Middle Ages. After the Institute reopened under the aegis of Columbia University, Dr. Kirchheimer reworked this manuscript, attempting to broaden its scope to view the forms of punishment on a background of the entire social and economic structure of a given society. The resulting study has been issued as the first of the new American series of Institute publications. Although Mr. Sellin's introduction would seem to be somewhat optimistic when it states that the authors have "made available a considerable amount of historical information not hitherto presented in English," they have given an excellent sketch of their subject.

The principal thesis is that the state of the labor market and the attitude of the governing class toward the poor—the latter hinging in part upon the former—have been important factors in determining methods of punishment, and even the purposes thereof. The house of correction was not possible while "sturdy beggars" were considered social assets, but it was a logical development in an age which found itself hard pressed for labor. Sentence to the galleys was a rational way to obtain labor for tasks for which free labor could never be found; nor is it surprising that in practice termination of the sentence hinged upon economic rather than penal factors, e.g., ability of the prisoner to perform his task adequately. The authors find similar factors operating in present-day Germany, where prison industries exist to rehabilitate waste materials rather than men. Possibly they should have examined prison conditions elsewhere for parallel situations.

The authors point out several instances in which the theories underlying modern types of punishment fail to be carried out in practice. For example, the statistics of every country show a remarkable unanimity in

restricting the punishment for violations of labor laws by employers to fines so small that "the reward is greater than the risk." The tables are reversed when we turn to the lower strata of society, for a majority of those serving sentences in present-day English jails (the translator has written "prisons") are there in default of fines. Yet these persons "were sentenced to pay a fine precisely because they were not considered ripe for imprisonment."

The book closes with an unconvincing statistical demonstration of what may well be a sound conclusion: "the policy of punishment and its variations have no effective influence on the rate of crime."

J. A. C. GRANT.

University of California, Los Angeles.

BRIEFER NOTICES

AMERICAN GOVERNMENT AND POLITICS

There may be many things of value in Edward Jerome's *The Problem of the Constitution* (Longmans, Green and Co., pp. ix, 224, $2.50.), but if so, they are seriously obscured by the author's lack of clarity in organization and statement. A patient and careful single reading is not sufficient basis for critical appraisal of the point the author is trying to make, but the resulting impression discourages any inclination to study out the paradoxes and apparent contradictions. The book is a protest that our constitutional development has been guided by considerations of constitutional politics and not of constitutional law. It attempts to outline the "correct" interpretation of the document. The essential tone is nostalgic search for certainty in the construction of the Constitution. The Court, not the Constitution, has divided sovereignty between state and national governments. Sovereignty cannot be divided. Hence, the opportunism of constitutional politics and judicial statesmanship has ruined the Constitution and has precluded the greater certainty and stability which the methods of legal scholarship would have brought. Secondarily, suggests the author, we suffer from our failure to see that the powers of the federal government divide into two main classes—the power to "act as a government" and the power to "regulate human conduct." The Court is to be criticized for its lack of self-restraint where it has restricted the power to act as a government. The Butler case is cited to illustrate such "wrong" decisions. In the cases involving the regulation of human conduct, the Court is equally to be criticized for its failure to enforce the privileges, immunities, and protections which would be given to citizens under the "correct" (i.e., the author's) interpretation of the document. The Jones and Laughlin case is cited as this type of "wrong" decision. The book

seems to be a plea that a different set of formulas of constitutional interpretation be substituted for the present ones. Just why this substitution would alter the essential character of the judicial process in the determination of close cases is never explained. If such a statement is puzzling, it should be said that brief summary is less unfair to this book than to most. The author consistently assumes that dogmatic repetition and elaboration of these general propositions are adequate substitutes for analytical support and explanation. The professional reader who tries to make some use of this book needs some fuller record of its literary and philosophical ancestry than the general credit lines given in the preface. The footnotes were probably omitted in the hope of attracting the lay reader; but the layman who survives the introduction will be a most persistent person.—EARL DELONG.

According to the preface, the purpose of Ben W. Palmer's *Marshall and Taney; Statesmen of the Law* (University of Minnesota Press, pp. vii, 281, $3.50) is not merely to give a reappraisal of two great judges in the light of present knowledge, but to be a "contribution to a better understanding of the judiciary as a great department of government." This explains the inclusion of much material which the book's title would appear to make irrelevant. As it is, the author has used the lives of the two chief justices as suitable starting points for making random excursions into the realm of constitutional history and philosophy. Thus, the volume contains many bits of interesting, albeit miscellaneous, information which make for a "better understanding of the judiciary." The theme of the book is simple. Marshall has been "canonized"; Taney has been "cursed." Mr. Palmer believes this has been carried to an unwarranted extreme, and consequently there should be a reappraisal. Evidence from decisions is produced to show that Taney had a nationalistic streak and a respect for private property. Taney's chief merit, as with Marshall, was "an awareness of the needs of his time." The author goes so far as to raise the question: "Which was the greater judge, John Marshall or Roger Brooke Taney?" He believes there can be no satisfactory answer, for "the critic himself will inescapably be the subject or the victim of his own political philosophy or point of view." Hence, those suspicious of great wealth will place Taney above Marshall, while Hamiltonians will favor Marshall over Taney. No new information or startling conclusions about the lives or decisions of either Marshall or Taney are to be found in the volume. The chapter, "Are Judges Human Beings?," is an excellent summary of historical and prevailing viewpoints on the character of the judicial process. It is regrettable that the author did not see fit to cite his sources specifically. Although there are frequent direct quotations, one over a page in length, there is not a single footnote reference.—WILLIAM O. FARBER.

George Soule's *An Economic Constitution for Democracy* (Yale University Press, pp. 101, $1.50) is a thoughtful, though brief and rather timid, argument for the extension of empirical collectivism in the United States. The author bases his suggestions for economic reform upon the failures of the New Deal, which he regards as already past and gone. While the New Deal succeeded in providing an adequate supply of money and in stimulating the flow of that money by borrowing, spending, and lending, it did not get the money all the way through the economic system, mainly because it did not directly attack the problem of the relationship of wages, prices, and profits. These "valves in the system of monetary circulation" were not properly adjusted, despite New Deal efforts to raise wages and increase farm income—efforts largely nullified by the existence of production- and price-control in industry, and in part by such New Deal taxes as those for social security. Though government spending stimulated consumers'-goods industries, it did not encourage enough new investment in the capital-goods field, nor did it achieve a steady expansion of production. These ends Mr. Soule would achieve by applying the "spend-lend" theory on a larger scale; the national government should provide not only projects "outside the realm of private enterprise," but also more of the goods and services that consumers want and pay for. Such government undertakings would supply real needs and would increase the nation's monetary income to a greater extent than the present spending policy. But, having thus set the stage for the promulgation of a collectivist "constitution," the author assures us that he would put the government into only three fields of enterprise: railroads, public utilities, and housing. Clearing the channels for new investment and adjusting cost and price factors in these three important fields constitute the frontiers of his collectivism. Other price problems are passed over with vague references to publicity, enforced competition, and regulation—with public ownership in the background as an ultimate step. Mr. Soule's conclusions come as an anti-climax to his analysis. His well written little book presents an interesting appraisal of the New Deal, but it falls far short of the promise of its title.—CARLTON C. RODEE.

Among the more important years in American political history are the first two years of the Franklin D. Roosevelt administration. The political scientist will always find the political, administrative, judicial, and legislative problems of that era of surpassing interest and significance. Even from the confusing and contradictory reports of the period, he may draw conclusions which will lead him to revise many an earlier dictum on political behavior. Almost all the chief actors in that drama of 1932 have given us their apologias. In *After Seven Years* (Harper and Brothers, pp. 446, $3.00), Mr. Moley now gives us his. Evidently Mr. Moley did not

intend that his work should be "the sweetest story ever told." He filled it full of barbs, and few there are who have escaped at least one scratch. Whether Mr. Moley, when he wrote, was sour and sore, only Mr. Moley can tell us; but that he left many readers in that condition no one can deny. Some would change the title of the book to "Had I, Mr. Moley, Been President"; while one mad wag suggests, "The Sour Grapes of Wrath." This may all be quite unfair to Mr. Moley, but such criticism is inevitable, particularly when the writer brings in, rather unnecessarily it seems to me, stories of academic and governmental colleagues that add in no way to the general value of the work. That Mr. Moley has broken confidences may also be true; yet the dividing line between the esoteric and the exoteric in public life shifts in time and visibility. An author should be guided by excess of caution and prudence in such matters. It may, however, be that Mr. Moley still holds *in petto* so much of a secret and explosive nature that the contents of his book seem to him, by comparison, both restrained and considerate. The reader cannot lay the book down without wishing for a comment on the commentator. What, for instance, made Mr. Moley a maverick among all his fellow political scientists and economists in international policy? What led him to his Hearstian nationalism? How did he become intense on that subject to the point of assuming a self-appointed guardianship over the President of the United States and his urbane Secretary of State? Perhaps at a future date we shall read of all this. Mr. Moley has given us a valuable piece of work. It is valuable in its fascinating and human description of the political process. It is valuable in the light that it throws on the workings of Mr. Roosevelt's mind. Finally, it is valuable for the moral implicitly set forth—delayed reform in the social order means erratic reform, and erratic reform brings deadly reaction.—JEROME G. KERWIN.

A most opportune book is C. J. Child's *The German-Americans in Politics, 1914–1917* (University of Wisconsin Press, pp. iv, 193, $2.00). At any rate, it was timely when written; whether it will be so by the date when this notice is published is another matter. Events move so rapidly these days and alliances form and reform with such startling rapidity that it is entirely possible that we shall not want to hear any more about foreign propaganda in the United States during the next few months. Child is an Englishman who has attempted to write dispassionately of the German-American efforts to keep America neutral in the first World War. In this attempt he has succeeded. The story of the German-American Alliance is told clearly and fairly, a remarkable feat for one whose nation went to war again with Germany a month after he wrote his preface. He convincingly demonstrates that the so-called hyphenated Americans of German extraction were not directed from abroad in their cam-

paign to make America aware of German *kultur*, and were motivated by irreproachable considerations. They started out teaching Germans the American way, and they ended in a futile gesture against the onrush of war sentiment. Child accepts the view that President Wilson was honestly concerned about the subversive tendencies displayed by all groups of Americans who were conscious of a unique foreign heritage. He also shows that Wilson, as well as many other Americans, was taken in by the British propaganda. It is ironical that now, more than twenty years later, we are again providing the Allies with arms and munitions. German-Americans seem no longer to be anxious to have us preserve our neutrality, and even the German state is indifferent. Gross violations of international law leave us cold. It will be a long time before we get sentimental again about the plight of foreign democracies. Perhaps the lesson that we learned during the heyday of the German-American Alliance has left us more strongly united in the pursuance of the common welfare, but it has also left us hard-boiled and selfish. From this point of view, Child's book will become in time a priceless memorandum on the romantic period in American foreign relations.—Roy V. Peel.

In his *New York: An American City, 1783–1803* (Columbia University Press, pp. 531, $5.00), Sidney I. Pomerantz presents, in the words of his subtitle, "A Study of Urban Life" during twenty of New York's most important years. Beginning with the aftermath of the Revolution, characterized by economic and political disorganization, the author surveys the government of the post-war city, noting the domination of the merchants and lawyers despite the gradual extension of the suffrage; analyzes the politics of the post-revolutionary era, emphasizing the conventional thesis of Patriot vs. Tory, Federalist vs. Republican, and repeating the story of the birth of the Tammany Society and the machinations of Aaron Burr; traces two decades of economic development, with the accompanying rapid growth of the city and the increasing complexity of municipal functions; relates the expansion of the social services of the city in terms of the extension of the police force, the establishment of standards of penal reform, poor relief, and public health; struggles with the intricate public finances of the growing city; and turns aside from mundane matters to conclude his survey with notes on "Twenty Years of Cultural Progress" and "The Lighter Side of Urban Living." The author is clearly a competent historian, and there is every evidence of an industrious exploration of the dusty archives of the city's early history. But there is little evidence of any profound understanding of urban beginnings or urban processes. The author is clearly not a sociologist with an eye keen to note the mutations in institutions from rural to urban forms. Nor is he a political scientist alert to the beginnings of urban political tech-

niques (sharply illustrated in his over-emphasis of personalities in the story of Tammany's birth and his neglect of the deeper social forces which brought forth that venerable institution). Nor is the author an economist, translating the statistics of harbor fees or city treasury collections into the significant pulsebeats of new economic institutions. He is instead the historian overwhelmed with the minutiæ of his diggings into our early urban past. The interpretation of these facts (and particularly of their significance to the political scientist interested in the origins of the institutions of municipal government, of urban parties, and of urban political movements) must await another commentator. There is, in other words, still another job to be done. New York, as our most important urban problem, commands further probing with sharper tools.—WALLACE S. SAYRE.

In his *Anti-Chain Store Tax Legislation* (University of Chicago Press, pp. 80, $1.00), Maurice W. Lee presents a somewhat detailed study of one phase of government control over business. The work is concerned primarily, not with the nature of retail distributions, but rather with the problems of control, the philosophy of control, and the specific techniques of regulation of chain stores in the several states. The discussion consists of an analysis of the effects of state discriminatory taxation upon corporate chain stores, with some consideration of other types of regulatory legislation which have appeared in the several states. The hypothesis in the study rests upon the assumption that competition, if effective, is preferable to regulation; and that regulation, because it constitutes a departure from previous constants, should be kept at a minimum. Throughout the work the author leads one to the conclusion that a disturbance produced by effective taxation and regulation would bring about losses far in excess of any gains that might be made as a result. He points to the fact that chain stores have introduced many revisions in the merchandising techniques and that, in general, the public has experienced an appreciable benefit from these innovations. Throughout the work, the attempt at regulation of chain stores through taxation or otherwise is freely criticized. Professor Lee adheres to the theory that "the power to tax is the power to destroy," and with ever-widening taxation of chain stores he feels that the chain form of organization is definitely destined for extinction. This point of view is well presented, but the reader cannot avoid raising the question as to whether there is not another side to the picture. With state after state imposing additional taxes upon chain stores, and such legislation meeting with little opposition, it would have resulted in a more balanced work if the author had presented both sides of the controversy. For a review of the details of chain store taxation, the study is recommended. It should be kept in mind, however, in reading it

that the author apparently writes with a preconceived notion that there should be as little regulation of this form of corporate organization as possible.—J. W. MANNING.

Typical of books derived from lectures, Malcolm Sharp's and Charles O. Gregory's *Social Change and Labor Law* (University of Chicago Press, pp. 175, $2.00) is lucid, concise, and non-erudite. Although covering ground familiar to labor students, the authors furnish stimulating suggestions as to implications in the recent reversal of attitude toward legal responsibility and trade unions. Mr. Sharp, discussing "Society and the Law," advances several new notions of responsibility, particularly that of the "relatively rich to the relatively poor." This relates to Gregory's subsequent discussion of government and labor. The key to Sharp's argument lies in his assertion that "adjustment and not violence is the characteristic instrument of successful democracy." In a thought-provoking essay on "Industrial Management in the Law," Sharp points out that corporate enterprise's future depends on our capacity to develop new organization forms which will enable management to assume something like a government's responsibility for protecting the interest of workers, stockholders, and customers alike. He considers the proper relating of industrial corporations to the democratic federal state as "the outstanding domestic problem of the times." Gregory's contribution consists of three excellent lectures on "Government Control of Labor Disputes." The first two deal with labor and common law in the courts, and with labor legislation up to 1932. This is well-traveled territory, simply and forcefully restated. In his final lecture, "State and Federal Legislation after 1932," Gregory discusses competently the Wagner Act and the N. L. R. B. His unmistakable apprehension at dangers allegedly inherent in a labor monopoly if the A. F. of L. and the C. I. O. bury the hatchet is his most provocative conclusion. The reviewer cannot share Professor Gregory's fears, particularly in view of effective anti-labor sentiment in prominent industrial states. A more imminent danger, deserving pessimistic thought, is the effort by anti-union partisans to sabotage the N. L. R. B. and the Wagner Act.—HAROLD W. DAVEY.

The revised edition of Bates and Field, *State Government* (Harper and Brothers, pp. x, 561, $3.50), will be welcomed by many instructors who teach beginning courses in the subject. The general plan and approach used in the first edition have been retained. By moving the chapter on "Finance" to a position following that entitled "The Administrative System," the authors have produced a better integrated and more coherent treatment of staff or overhead functions. Expansion of the discussions of administrative services, especially those of law enforcement,

public health, and public welfare, to include later developments and city-state relations, has increased the number of chapters devoted to these services to three. An entirely new chapter on "City Government" briefly covers a field omitted from the earlier edition. Throughout the book, data have been brought up to date, and materials which more recently have become available have been utilized. Notable in this respect are the succinct but well-considered statements concerning legislative councils, personnel administration, later national-state relations, and some of the achievements of the Council of State Governments. The appendices of the original volume, which included four state constitutions, have been omitted. The publisher has followed the recent trend in slightly larger page size, more readable type, more compact binding, and more colorful cover design.—W. ROLLAND MADDOX.

The Housing Yearbook, 1939 (Chicago: National Association of Housing Officials, pp. 240, $3.00) devotes almost one-half of its pages to an article on local and state activities in the field. This is in recognition of the fact that during 1938 local agencies advanced far in their plans and programs. Articles by four federal administrators summarize developments in the United States Housing Authority, the Federal Housing Administration, the Federal Home Loan Bank Board, and the Farm Security Administration. The balance of the book is given over to a summary of the activities of national unofficial housing organizations, a directory of housing agencies, and a review of the activities, committees, etc., of the National Association of Housing Officials. A comparison of the 1939 *Yearbook* with that of preceding years shows that there have been rapid developments in public housing, in the growth of local interest, and in linking public and assisted private developments into comprehensive programs in both urban and rural communities.—HELEN I. CLARKE.

The conflicting provisions of state constitutions and statutes present as serious difficulties for those desiring the federal government to aid education as they do in several other fields. In his pamphlet, *Selected Legal Problems in Providing Federal Aid for Education* (Government Printing Office, pp. 70, $0.15), Robert R. Hamilton reaches the conclusion that these legal difficulties are not insurmountable. The argument is buttressed with copious quotations from the statutes and decisions, somewhat in the nature of a lawyer's brief. Little attention is given to the *rationale* of the cases, and nothing is done to reconcile conflicting decisions into a jurisprudence on this subject. The author has, however, provided a convenient summary of the views of the courts on such problems as the ownership of federal funds granted to the states, the legality of state equalization funds, and the legal problems in granting federal aid for school busses.—RODNEY L. MOTT.

FOREIGN GOVERNMENT AND POLITICS

In *How Strong Is Britain?* (Veritas Press, pp. iv, 239, $2.50), C. E. Count Pückler has produced a timely piece of work. Using the statistical method, the author shows that British industry is capable of producing more, and does produce more, than in 1914; that the production of agriculture has not "materially decreased"; and that Great Britain's military position, with that of her Empire, has been strengthened and consolidated in recent years. But the author sees Britain on the decline financially, since the "triumphal march of British capital throughout the world" has come to an end and the "great estate inherited by the . . . people from their forefathers must now be defended." Britain, with a head start in the industrial revolution, soon became the world's banker for other countries engaged in industrialization at home and expansion abroad; but she has played this rôle less frequently during the last quarter of a century. The World War greatly weakened Britain's economy; while numerous later political and economic developments in the United Kingdom and the Empire have further contributed to the uncertainty of her position in the world today. The conclusion that the author then reaches is that although Britain's economic strength now is "almost equally as great" as in 1914, the "important difference is that, whereas before the World War Great Britain was growing richer, she is now growing poorer, and it is of fundamental importance that this gradual impoverishment has its roots in a trend of world development which is in all probability not a temporary but a permanent one." It might be pointed out here, however, that too much emphasis should not be placed upon the weakness of Britain's economic position, and that it should rather be considered in relation to the situation of other great powers. Great Britain is certainly more capable of carrying on war today than any country in the world except the United States.—CARL M. FRASURE.

An addition to the histories of national parliaments was made in 1937 by the parliament of Yugoslavia, which published through the state printing office at Belgrade a work by Čedomil Mitrinović and Miloš N. Brašić entitled *Jugoslovenske Narodne Skupštine i Sabori* ("Yugoslav National Assemblies and Diets"), pp. xiii, 429. The work seems to be the first and only considerable historical account of the development of the parliament of Yugoslavia, and of the other legislative assemblies within the present territories of Yugoslavia, from the beginning in 1804 to 1935/36. The first eleven chapters are devoted to the history of the Serbian parliament, the existence of which has been closely tied up with the struggles of the Serbian people for their independence and freedom. The first Serbian national assembly was held in 1804, when the Serbians made their first attempt to revolt against Turkish rule. Not before 1901,

however, did the Serbian parliament have even a permanent place for its meetings; especially in the earliest years of its existence, the Assembly had to change meeting places repeatedly, sometimes convening secretly in precarious hiding places in the woods, and at other times moving along with the fighting national army. In 1918, the existence of the Serbian parliament came to an end, and the parliament of the newly created triune state of the Serbs, Croats, and Slovenes began. Chapters XII–XXII deal with the diets or assemblies of various areas now incorporated in the triune state, and Chapters XXIII–XXVI with the new united parliament of the latter. The book is in the Serbian language, but each chapter is accompanied by a summary in French.—JAMES B. CHILDS.

Post-Entry Training for Local Government Officers (London: William Hodge and Company, Ltd., pp. xv, 212, 7s. 6d.), by Charles Winter, is a concise, factual report on the training being offered municipal employees in Great Britain. The book is one of a series of research studies sponsored by the Institute of Public Administration. Mr. Winter's study reveals widespread interest among local governments and their employees in programs of post-entry or in-service training. For the most part, the employees have taken the initiative in training activities, although some municipal governments have encouraged such training by offering scholarships to promising young officers, by giving salary advancements for degrees or professional certificates, and by granting leaves with pay to officials attending schools and conferences. Employee interest has centered chiefly in training leading to membership in, or a certificate from, one of the numerous technical or professional associations of public officials. However, some attention is being given to the study of the general principles and problems of public administration, and a number of universities are coöperating in this kind of training work by offering appropriate lectures, extension courses, and degrees. The author concludes that the municipal governments of Great Britain should join in establishing a national advisory committee and regional committees for the purpose of coördinating the post-entry training now offered by governmental, professional, and educational authorities and of relating it to pre-entry training and other aspects of personnel administration.—HIRAM M. STOUT.

The field of public housing is increasingly engaging the attention of students of government, law, and administration. As yet, we know relatively little as to how foreign countries have dealt with the problem. Mr. John N. Hazard's *Soviet Housing Law* (Yale University Press, pp. iv, 178, $2.50) is the first study of Soviet housing to appear in English. Mr. Hazard has had the opportunity of attending the Soviet Academy of Law in Moscow for three years, and his study is based, not only on a thorough

and apt perusal of all relevant legal sources, such as statutes, case reports, and trial proceedings, but also on first-hand observation. The author starts with a broad analysis of the changes in the field of housing that are directly traceable to the Russian Revolution and the new system of property relations. He then proceeds with a detailed discussion of the more technical issues of law and administration. The acquisition of the right to occupy dwelling space, the duty to pay rent, the rights and duties of lessor and lessee, the exchange of dwelling space, etc., are some of the issues dealt with. In the last chapter the author discusses the broader implications of Soviet housing as "one of the tools by which a new society is to be fashioned" (p. 125), and this chapter will be of particular interest to political scientists. In an appendix, the texts of several official documents relating to state, local, and coöperative housing are reproduced in full, and they give a valuable insight into the administrative machinery that manages and supervises Soviet housing.—WILLIAM EBENSTEIN.

S. D. Clark's *The Canadian Manufacturers' Association* (University of Toronto Press, pp. XIII, 107, $2.00) presents an excellent account of the origins and development of a Canadian pressure group, based mainly upon the Association's publications. The conflicting sectional interests of Canada have had a permanent effect on structure and policy within the organization. The study covers the record of the Association in insurance, transportation, tariff, and labor legislation.—CHARLES B. HAGAN.

INTERNATIONAL LAW AND RELATIONS

Giddy Minds and Foreign Quarrels (Macmillan Co., pp. 87, $0.50) summarizes Dr. Charles A. Beard's ideas regarding American foreign policy. Taking his text from the fourth act of Henry IV, in which the king advises his son "to busy giddy minds with foreign quarrels," the author points out the danger of leaders in the United States following such a course. Before 1890, according to the argument advanced, we as a nation were content to act on the advice of Washington about minding our own business. But under the influence of Alfred Thayer Mahan, Theodore Roosevelt, Henry Cabot Lodge, and Alfred J. Beveridge, we adopted a course of adventurism and interventionism. The aftermath of the World War had a sobering effect—for a time even on Franklin D. Roosevelt, who scouted the idea of tariff tinkering and economic conferences. But more lately the President has left his moorings. He has sought to line up the governments of Latin America in defense of "democracy"—in reality a "united front" against Hitler and Mussolini. He has meddled, however ineffectively, in the affairs of China and Japan. In his Chicago speech of October 5, 1937, he advocated collective action of the "democracies" to quarantine aggressors. More recently, he has advocated large increases in

expenditures for armaments. He now clearly intends "to collaborate actively with Great Britain and France in their everlasting wrangle with Germany, Italy, and Japan." Mr. Roosevelt's policy, so Dr. Beard believes, is "quixotic and dangerous." That is because no one in the United States can know what is going on in Europe, much less devise a course of action which can safely determine the outcome of events. Equally ineffective would be our efforts to establish a stable and lasting equilibrium in Asia. The one sane and sensible course for us, then, is to revert to the doctrines of Washington and Monroe, leaving the Old World to its own devices. Since we are economically more independent today than was the case in 1783, we should have less difficulty than the founders of the Republic in applying their wise policy. Dr. Beard finds our foreign trade to be less than ten per cent of the total of our commerce. This ten per cent, he insists, is not worth the trouble or risk of intervening in the affairs of foreign nations. He seems to overlook the fact that Texas, for example, normally exports between 80 and 90 per cent of its cotton, and that more than half of its inhabitants depend, directly or indirectly, on the cotton industry. He is on sound ground, however, when he raises the question of how our intervention in the disputes of Europe or Asia can "substantially increase our trade or add to our, or their, well-being." It is suggested that a more constructive economic policy on our part might help, and that it would not involve the dangers connected with intervention.—S. D. Myres, Jr.

Perusing the 1939 edition of the *Jahrbuch für Auswärtige Politik* (Berlin: August Gross Verlag, pp. vii, 512, RM 7.50), again edited by Dr. Fritz Berber, one cannot but recall the ominous sentences of the foreword to the volume for 1938. Chapters, each an individual essay, are devoted to the "reunion" of Austria with the German Reich and to the Czechoslovakian crisis. Undoubtedly, there had long existed a strong sentiment in Austria and among the Sudeten Germans for a union with the people of Germany. This desire, especially marked after the collapse of the Dual Monarchy, was encouraged by the attitude of Balfour, Sonnino, and Wilson at Versailles, but was defeated by France. However, one cannot overlook the fact that the ballots used in the plebiscite of 1938 had evidently been designed for the near-sighted. In the light of recent events, one of the most interesting chapters concerns itself with the Berlin-Rome axis and "its assurance of European peace." There is reflected in this essay the European disillusionment concerning the League of Nations and the feeling that its failure was brought about by shortsightedness and the use of the League by interested powers to attain selfish ends. The result was political chaos and the gradual division of Europe into two opposing blocs—with the smaller states of Central and Southeastern

Europe inclining toward one bloc or another, as determined by their own particular interests. This first became evident in the attempt to impose sanctions on Italy, and more especially in Spain. One gathers, further, that the appearance of Russia upon the European political stage made the Rome-Berlin axis a certainty. Further chapters are devoted to a review of German, French, and British foreign policy during 1938; while others deal with the diplomatic situation in the Orient and America. The National Socialist policy with regard to Germans living abroad is restated by Herr Bohle, chief of the NSDAP Bureau of the Foreign Office. As in previous issues of the *Jahrbuch*, one finds a chronicle of political events and a rather comprehensive list of books on foreign relations published during the year, as well as seventy-five pages of sundry treaties and diplomatic correspondence. There is included also a directory of diplomatic and consular officers accredited to the Reich and of Reich representatives abroad. The volume concludes with a tabular résumé of consular and commercial conventions in effect between Germany and other powers. The *Jahrbuch* merits more attention than is usually accorded works of this nature.—RAYMOND C. WERNER.

In view of the vital importance of the problem of raw materials in the present struggle for world power, as well as in any future settlement, a book like Herman Kranold's *The International Distribution of Raw Materials* (Harper and Brothers, pp. xxiv, 269, $3.50) is a welcome addition to political and economic literature. The author first reviews the production and geographical distribution of certain raw materials, then proceeds to analyze the existing mechanism of distribution, and finally outlines suggestions for the improvement of this mechanism. It is perhaps of particular interest that this treatise should have been written by a national of one of the so-called have-not nations (Mr. Kranold, now associate professor of economics at Talladega College, was a German Social Democrat, journalist, and economist). The author's chief objective seems to be the refutation of some popular misconceptions, such as the misleading division of the big powers into "haves" and "have-nots" and the exaggerated importance attached to the concept of "control" of raw materials. While such scientific debunking of fallacies is undoubtedly a meritorious undertaking, the reviewer finds it difficult to agree with the author's optimistic statement that fundamentally "no problem of access to raw materials exists." The purely economic analysis here seems to lead to an unjustifiable neglect of powerful political and psychological factors. However, this detracts not at all from the value of the book as a survey of raw materials existing in the world and as a constructive criticism of the prevailing methods of their distribution. In the last chapters, Mr. Kranold discusses the desirability of establishing some kind of international plan-

ning board, to which each individual state would have to cede part of its sovereign powers. It is perhaps a pity that the author has not elaborated this point in greater detail. The most valuable part of the work is the wealth of statistical material, interspersed (perhaps somewhat too generously) in the text, but chiefly contained in a seventy-page appendix. It would probably enhance the value of the book if one or several maps could be added showing the geographical distribution of raw materials, if the statistical data could be brought up-to-date (the book was written in 1937), and if foodstuffs were treated more extensively. The work should be a valuable source of information for the specialist; while for the general reader it is a stimulating survey of one of our most pressing problems.—ALEXANDER BÖKER.

The literature on the Suez Canal in English, French, and Italian is already voluminous. From time to time, German writers have treated various aspects of the problem that are of interest to Germans. It remained for Hartmann Freiherr von Richthofen, in his *Der Suez-Kanal im Weltkrieg und in der Nachkriegszeit* (Berlin: Verlag Karl Siegismund, pp. 89), to attempt an examination of the status of the canal under international law, filling, he hopes (p. 10), an hiatus in the German discussions of the subject. In sections of about equal length, covering the pre-war, World War, and post-war periods, the author analyzes in great detail, with support from continuous reference to documentary sources, the several national and international acts of legal significance relative to the international status of the canal, down to and including the British-Egyptian treaty of alliance of August 26, 1936. He demonstrates how the legal web of relations among the signatories and non-signatories of the Constantinople convention of October 29, 1888, among the beneficiaries of the Khedival concessions and the Sultanic firmans, and between Britain and Egypt, is further unsatisfactorily complicated by implications from the Kellogg-Briand Pact and Egyptian membership in the League of Nations. What Germany is interested in is freedom of navigation in peace and war, and to that end the author appears to favor a progressively stronger legal position for the *territorialstaat* most intimately involved, namely Egypt, under, a reëxamination of the Constantinople convention in the light of the altered status quo. A bibliography (pp. 7–8) lists the works of about fifty representative writers on the subject. In the appendix are given the French text of the 1888 convention (pp. 83–85) and the English text of the Anglo-Egyptian treaty of 1936 (pp. 86–89). Baron Richthofen's style is exceedingly compact and at times very involved, as might be expected from any attempt to compress such an analysis within about seventy pages of exposition.—HENRY REIFF.

During the past ten years, Harold Nicolson has written four books on diplomacy. In *The Portrait of a Diplomatist*, a biography of his father, the author depicts pre-war, or "old diplomacy"; in *Peacemaking*, he describes the diplomacy of the Peace Conference, which he attended as a staff member of the British delegation; in *Curzon*, he describes the diplomacy of the early post-war period. In the fourth book, *Diplomacy* (Harcourt, Brace and Co., pp. 264, $2.00), he sums up, setting forth his conclusions in a more systematic fashion than his previous studies warranted. At the outset, he insists that by diplomacy he means method and not policy. In the small compass of the book, he describes briefly and not altogether adequately the origin and development of diplomacy as employed by modern states. He calls attention to factors such as the improved means of communication and the greater influence of public opinion on government which have in recent years compelled states to make changes in their methods of conducting relations with one another. Somewhat in the manner of Satow, but more summarily, he describes certain points in diplomatic procedure, the system of recruitment and training of foreign service personnel, and diplomatic language, adding a useful glossary of terms. To the reviewer, however, it is not the descriptive part, but rather the author's views on such matters as the qualities essential to a good diplomatist and on reconciling democratic control of the conduct of foreign relations with efficiency which commend the book. His discernment shows the results of Mr. Nicolson's study and experience. *Diplomacy* might be characterized briefly as an elaboration of the definition which appeared in the author's *Peacemaking:* "Diplomacy is the art of negotiating documents in a ratifiable and therefore dependable form." No one familiar with any of Mr. Nicolson's essays or books needs to be informed of the fine quality of the writing.—HOWARD B. CALDERWOOD.

America and the World Crisis (Dallas, Tex.: Arnold Foundation, pp. xvi, 187) is the title under which are published fourteen papers given March 6–11, 1939, at the sixth annual conference of the Institute of Public Affairs of Southern Methodist University. The papers and their authors are as follows: "European Tensions," Adda von Bruemmer-Bozeman; "Fascism and International Peace," J. Linus Glanville; "Chamberlain's Appeasement at Munich," C. Allen True; "The Rôle of International Law," C. D. Judd; "The Press and the Crisis," Frank H. King; "Essentials of Our Foreign Policy," Robert L. Jones; "Some Constructive Suggestions," Charles A. Timm; "Economic Bases of Peace," Peter Molyneaux; "Anglo-Saxon Hegemony," Rushton Coulborn; "The Good-Neighbor Policy," J. Lloyd Mecham; "America's Position in the Caribbean," Werner A. Bohnstedt; "The Far Eastern Problem," Clyde

Eagleton; "Party Politics and American Foreign Policy," O. Douglas Weeks; "Restoring Congressional Government," C. Perry Patterson. The collection provides a comprehensive and, for the most part, realistic outlook on world problems confronting the United States toward the end of the era of appeasement which followed Munich. Solutions then proposed for preventing the outbreak of war in Europe are now outmoded. More pertinent today are the discussions of our relations with the Far East and Latin America, as well as the suggested adaptation of American governmental forms to meet the challenge of totalitarianism.—LUCRETIA L. ILSLEY.

Documents on American Foreign Relations: January, 1938–June, 1939 (World Peace Foundation, pp. xxvi, 582, $3.75), edited by S. Shepard Jones and Denys P. Myers, is the first of a series of annual volumes to appear each September as a project of the World Peace Foundation. The purpose of the series is to present a documentary picture, uncolored by subjective attitude, of American foreign policies. In the present volume, the editors have covered a period of eighteen months in order to include the important events of the first half of 1938. Speeches of the President and Secretary of State, diplomatic correspondence, treaties, acts of Congress, and executive orders are presented, topically arranged under eleven chapter headings. Together they embrace the whole range of American relationships with Europe, Latin America, and the Far East, as well as non-regional policies dealing with national defense, neutrality, refugees, finance, and trade. Explanatory headnotes have been inserted by the editors where they are most needed. Twelve appendices provide significant statistical data on a number of subjects, such as licenses for munitions shipments, expenditure for national defense, international debts, and passports. The volume is well adapted to the use of teachers and students, who will welcome the project for a continuing series as an aid to the understanding of American diplomacy.—NORMAN L. HILL.

North Pacific Fisheries (pp. 322, $3.00), by Homer E. Gregory and Kathleen Barnes, is Number 3 of the "Studies of the Pacific" series, sponsored and published by the American Council, Institute of Pacific Relations. The study was prompted by the growing necessity of finding ways and means for conserving the supply of salmon and halibut in waters extending from California to Alaska, in the face of constantly improving methods of catching, processing, and marketing these fish. The authors have undertaken to examine and clarify the major aspects of these fishing industries, including the biological bases of the industries, habits of the fish, methods of taking, processing, and marketing them, and past and present efforts at conservation by California, Oregon, Washington,

Canada, and the United States. Existing treaty arrangements for conservation are explained. The relative place of small-scale and large-scale fishing operations, with the advantages, disadvantages, and limitations of each, is surveyed. Problems of labor supply and unionization are examined. The importance of the fisheries in Alaskan economy is demonstrated. The urgency of the problem of developing an adequate international arrangement for conservation, especially of the salmon supply, is emphasized, in view of recent manifestations of European and Japanese interest in this area. Twenty-seven tables and twenty-three graphs, distributed effectively throughout the book, add measurably to the clarity of the case made out by the authors, and in no way interfere with the excellent readability of the text.—N. D. HOUGHTON.

Too high praise cannot be bestowed upon L. Ethan Ellis' *Reciprocity, 1911; A Study in Canadian-American Relations* (Yale University Press, pp. x, 207, $2.50), one of the series of studies prepared under the direction of the Carnegie Endowment for International Peace, Division of History and Economics. It is the first substantial study of Canadian and American cross-border influences operating upon the passage of the implementing legislation in the United States and the rejection of the Taft-Fielding agreement in Canada. An old tale is vividly retold, with a wealth of new materials. The study is distinguished by the use, for the first time in this connection, of the Taft papers; by a thorough investigation of the Laurier papers; by a canvass (the first of its kind) of Canadian press opinion from coast to coast; by use of contributions from a voluminous correspondence between the author and numerous individuals who had participated in the controversy. Political scientists will welcome the masterful analysis of propaganda techniques utilized on both sides of the line; the dissection of the Canadian and American pressure groups and their interests; the excellent description of a crucial Canadian political campaign; the clear account of the relation of the reciprocity controversy to the political fortunes of Taft and Laurier, to the further disintegration of the Republican party, and to the tariff reform movement of the times. Professor Ellis' history of this episode in Canadian-American relations is indeed, as Dr. Shotwell says (p. viii), "a study of dramatic interest in itself, . . . a vital human document."—HENRY REIFF.

The Sociology of Races, Cultures, and Human Progress; Studies in the Relations between Asia and Eur-America (reprint; first published 1922; Calcutta: Chuckervertty, Chatterjee, and Co., pp. vi, 399, Rs 7), by Dr. Benoy Kumar Sarkar, is a volume of essays having as its purpose the destruction of what the author calls "colonialism" in politics and "orientalism" in science. In studies on topics ranging from Confucianism,

Buddhism, and Christianity to art, literature, and political theory in India and China, the distinguished sociologist and historian endeavors to show, with not a little success, that thought-patterns and actions in the East have assumed shapes very similar to those in the West. The "Oriental mind" is largely a myth, alike in art, religion, and political theory. Professor Sarkar manifests remarkable erudition in developing this thesis, and for students of comparative political theory and institutions several of the essays may prove very helpful.—MULFORD Q. SIBLEY.

The most recent volume in the Albert Shaw Lectures on Diplomatic History is *France and Latin American Independence* (Johns Hopkins Press, pp. xvi, 626, $3.75), by William Spence Robertson. The book is the first comprehensive and scholarly work dealing with this important phase of the international relations of the governments of Latin America in a critical period of their history. It is, therefore, most welcome to all students who have tried to navigate the cross currents of diplomatic bickering among the nations of Europe with Spain and her former colonies during the first half of the nineteenth century. The treatment is generally chronological, beginning with French-Iberian relations in the latter part of the eighteenth century. Chapter XII deals with the recognition of Brazil, and Chapter XIII with that of Haiti. There are three maps, an excellent bibliography (pp. 587–606), and a satisfactory index.—A. CURTIS WILGUS.

Dr. Paul Einzig has continued his annual survey of international financial developments by the publication of a recent volume, *World Finance, 1938–1939* (Macmillan Co., pp. xiv, 307, $3.00), in which he chronicles the major events of the period. Naturally enough, a large part of the book is given over to the financial aspects of rearmament and to the competition between Germany and the democracies for economic domination over the Danubian states. Although many of the prophecies concerning probable trade and financial trends have been upset by the advent of war, the volume, like its predecessors, provides a convenient work of reference for developments and a stimulating, even though not impartial, interpretation of the tangled confusion of international finance, trade, and politics.—GRAYSON L. KIRK.

POLITICAL THEORY AND MISCELLANEOUS

Coincident with the growing seriousness of the problem of government during the past few years has come a stimulating and significant rebirth of interest in American political thought. In his *Social Philosophy of John Taylor of Caroline* (Columbia University Press, pp. xii, 227, $2.75), Eugene Tenbroeck Mudge adds another volume to this reinterpretation

of our intellectual heritage, and it is in no sense unworthy of the movement of which it forms a part. John Taylor has long been ranked as one of our foremost political theorists, but he has remained for the most part unread, primarily because of the discursiveness and dullness of his prose. He was neither logician nor publicist, but a plain farmer who wrote only to correct abuses in the social structure. He stands as a transitional thinker at the meeting point of two eras, champion of the "principles of the Revolution" and critic of the industrial order by which he saw those principles being pushed aside. Taylor shared with Jefferson a deep conviction that government ought to be moral. Though he saw, perhaps as clearly as did Calhoun, the nature of the economic forces from which political power was derived, he was not ready to accept the derivation as final. In the present volume, Dr. Mudge has reduced Taylor's lengthy and often chaotic writings to a fairly straightforward and complete statement of a political theory. It is a theory from which we can learn much, both of the wisdom and the astigmatism of the men who launched the American experiment in constitutional democracy, and of the forces which led from Independence Hall to Gettysburg. It is a theory which may now for the first time be read in concise and convenient form. There can no longer be any excuse for failure to know John Taylor.—CHARLES M. WILTSE.

In his *Law as Fact* (Humphrey Milford, pp. 220, 7s. 6d.), Karl Olivekrona, professor of law in the University of Lund (Sweden), is primarily concerned with attacking metaphysical notions of law and substituting a more realistic concept. Law, he declares, is not a set of rules which are in some abstract and inexplicable sense "binding." Nor is it the command of the state; for it does not consist mainly of commands, and, more fundamentally, it is in any case prior to the state. Still less is it the "will" of the state. If law has natural causes and natural effects, Professor Olivekrona insists, it must itself be a social fact of the same order—a link in the chain of cause and effect. More specifically, what we call law is "essentially organized force" (p. 123). But this is not to say that law is made up of physical facts. On the contrary, law can best be described as "independent imperatives" whose content consists chiefly in "ideas of imaginary actions by people (e.g., judges) in imaginary situations" (p. 29). The "facts" which are the essence of law are in the last analysis psychological; they are chiefly ideas concerning human behavior. Thus the vital characteristic of law is its psychological effectiveness, the hold it has on human minds. The key to obtaining this psychological sanction for a given rule consists generally, but not always, in the use of a certain constitutional form, whose magic touch, so to speak, achieves general acceptance of the rule. Control of the constitutional forms rests upon power—the power of force and the power of propaganda. The volume is of service in demonstrating

that the basis of law is neither physical nor metaphysical, but psychological; however, it contains not a little confusion of expression if not of thought.—J. ROLAND PENNOCK.

If any evidence were needed of the ability of the human species to become a mass of contradictions, *Sir William Blackstone* (University of North Carolina Press, pp, xx, 308, $3.00) might well be Exhibit A. Dr. Daniel A. Lockmiller calls his volume a biography, but it is much more than merely a life of this idol of the American bar. It is a series of scholarly, yet readable, studies of Blackstone's many activities. For his sources, the author has not only exhausted printed materials, but has also made use of several collections of Blackstone manuscripts, the most notable being the Hampden L. Carsen Collection in Philadelphia. That the orphan of Cheapside should become a world figure was a minor anomaly in Blackstone's career. The successful business manager of Oxford was at odd moments a poet; the Vinerian professor of law dabbled in architecture; the squire of Wallingford seemed more interested in pastries than in public betterment; the opponent of John Wilkes was given to fulsome praise of British liberties; the supporter of the Stamp Act wrote the law book which was most popular in the colonies; the brilliant scholar whose word was the law for countless courts became an honest, but mediocre, judge of a trial court; the prison reformer was also the apologist for the harshest of criminal codes. The caste system of eighteenth-century England did not prevent Blackstone's exceptional talents from exerting a tremendous influence, but it did warp and twist his character into curious forms.—RODNEY L. MOTT.

Albert Jay Nock's *Henry George; An Essay* (William Morrow and Co., pp. 224, $2.50) is not a biography; nor is it an exposition of the philosophy of George. The author attempts "to lay a finger on the causes, both original and contributory, of an interesting social phenomenon" (p. 8). He succeeds admirably. George's acquaintance with the King James version and the Book of Common Prayer gave him a straightforward, swift, correct, and forceful literary style. He had only a few years of formal education, and that under uninspiring teachers. He read but little. He reflected upon what he heard, saw, and felt. Poverty and depressions which he was ever witnessing and experiencing tremendously influenced his thought. Ten years in California journalism convinced him of the value of publicity and of the efficacy of political action, twin handicaps to a philosopher which he never overcame. The tragedy of the author of *Progress and Poverty* was that he remained a journalist, a reformer, a crusader, a propagandist, and something of a politician throughout his life. The futile battles of the day deprived him of that energy and peace

which he could have used for the enrichment of the ages and left him, in the popular mind, just a reformer of the 'eighties and 'nineties. If George is ever restored to his rightful place as one of our great social philosophers, this scholarly, penetrating, and altogether delightful centenary essay will no doubt receive a large part of the credit for such restoration.—CLAUDIUS O. JOHNSON.

In his *Taxation of Small Incomes* (Ronald Press, pp. 210, $3.00), Paul J. Strayer has presented much-needed information on the social, revenue, and administrative aspects of the problem of extending income taxes to the lower brackets. Estimates of yields resulting from various possible changes in exemptions are given, and the limitations of such estimates are noted. The ideal and actual distribution of tax burdens is discussed, and the case for and against tax consciousness. Finally, the administrative problems arising from the taxation of small incomes are presented, with particular consideration of the relation of income taxation to social security taxation, and an account of administrative procedures used in taxing small incomes in Great Britain, Australia, and Germany. The evidence offered as to the relative effectiveness of the different procedures is of particular interest. The author concludes that reduction of the exemptions for the federal income tax would bring important increases in revenue (although less than is sometimes supposed); and, if used to replace indirect taxes, would contribute materially both to tax consciousness and to the equity of our tax system. He believes that the administrative difficulties are not insuperable, but are sufficient to make it advisable to reduce exemptions slowly. Considering the book as a whole, the presentation of material is exceptionally clear and objective, and it is an important and timely contribution to the literature of income taxation.—MABEL NEWCOMER.

That the authors of the most popular college text in an important field have written a new book is in itself a matter of interest. Although F. E. Croxton and D. J. Cowden's new *Applied General Statistics* (Prentice-Hall Inc., pp. xx, 944, $4.00) falls somewhat short of being "general" (as indeed the authors suggest in the preface), it is nevertheless more than merely another book. It contains all the subject-matter embraced in other elementary texts in statistics for social science students—and more. The authors even suggest that certain chapters dealing with time series and correlation of the 800 pages of text can readily be omitted. Since political scientists are rarely teachers of statistics, for whom the text has been specifically designed, probably the two most important questions to answer here are: (a) Can the book serve as an effective manual for the student of government, who, though not a professional statistician, needs

to analyze and present quantitative data, and (b) Will the text prove suggestive to the student called on as a staff worker for aid in presenting government reports? On both counts an affirmative answer can be given. For service as a reference manual, the comprehensive text, statistical tables, bibliography, and glossary will be a convenience. For reports of governmental activities, the illustrative matter will prove suggestive; although one could utilize for this purpose a greater variety of pictograms than Croxton and Cowden employ.—JAMES W. MARTIN.

In *John Tyler, Champion of the Old South* (D. Appleton-Century Co., pp. xv, 496, $4.00), Oliver Perry Chitwood retrieves the tenth president of the United States from historical ignominy. Bearing the imprimatur of the American Historical Association, the biography is scholarly and the narrative cautiously correct. Professor Chitwood carefully sifts the evidence in the case of John Tyler, perfidious politician versus patriotic statesman, and fortuitously finds his hero misrepresented, particularly in the bank controversy. He pictures Tyler as a rather conventional gentleman epitomizing the social and political ideals of tidewater Virginia. This is essentially the vindication of Tyler's public life, of his consistent career as an exponent of states' rights and champion of the Old South. The portrait is almost a silhouette in which the notable men and stirring events of the period are but shadows and reflections on the life of John Tyler.—MARIAN D. IRISH.

RECENT PUBLICATIONS OF POLITICAL INTEREST
BOOKS AND PERIODICALS

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AMERICAN GOVERNMENT AND PUBLIC LAW

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Gottinger, Ray. The formation of the state of Oklahoma, 1803–1906. Norman, Univ. of Okla. Press, 1939. 321 p. $2.50. (Reprint of 1917 issue.)

Peterson, H. C. Propaganda for war. Norman, Univ. of Okla. Press, 1939. $3.00.

OREGON

State planning board. A study of migration into Oregon, 1930–1937. Volume II. Sources and characteristics of migrants. By V. B. Stanbery. Portland, 1939. 278 p. (mim.) (Part of a W.P.A. project.)

University of Oregon, Eugene. Bureau of municipal research and service. Municipal regulation of curb cuts and service driveways. Eugene, 1939. 19 p. (mim.)

TEXAS

University of Texas, Austin. Bureau of research in the social sciences. Municipal officials in Texas, by E. G. Thomas. Austin, 1939. 179 p., tables, charts. (Municipal studies, no. 13.)

WISCONSIN

University of Wisconsin, Madison. The German-Americans in politics, 1914–1917, by Clifton J. Child. Madison, Univ. of Wis. Press, 1939. 193 p. $2.00.

FOREIGN AND INTERNATIONAL

EGYPT

Director des affaires politiques et commerciales. This department has issued during 1939 about a dozen publications in the nature of treaties, conventions, and similar agreements, without series number.

FRANCE

Présidence du conseil. Organisation générale de la nation pour le temps de guerre. Paris, Imp. Nationale, 1939.

GERMANY

Auswärtiges amt. Urkunden zur letzten phase der deutsch-polnischen Krise. Berlin, Reichsdruckerei, 1939. 31 p.

——— Documents concerning the last phase of the German-Polish crisis. Berlin Reichsdruckerei, 1939. 30 p.

——— Documents relative to events leading up to the war. Berlin, Reichsdruckerei, 1939. 344 p.

German library of information. German white book. Documents concerning the last phase of the German-Polish crisis. New York, German library of information, 1939. 48 p. (Same text as above, but smaller pages.)

The foregoing German publications are typical of a number of white, blue, yellow, and orange books, issued by the foreign offices of Germany, Great Britain, France, Finland, and the Netherlands. Not all of them have been seen here, but doubtless all can be had upon application to the diplomatic missions of the respective countries in Washington.

GREAT BRITAIN

Foreign office. Documents concerning German-Polish relations. London, H.M.-S.O., 1939. 195 p. (Cmd. 6106) 1s. 3d.

British blue book. New York, Farrar and Rinehart, 1939. 288 p. $1.50.

British white paper. Germany No. 1 (1939). Final report by the Rt. Hon. Sir. Neville Henderson, G.C.M.G., on the circumstances leading to the termination of his mission to Berlin, September 20, 1939. New York, Farrar and Rinehart, 1939. 252–282 p. (The American editions are available through this reprint because of difficulty in securing foreign official copies. The Neville Henderson report in the official edition is Command Paper 1939, no. 6115.)

——— Parliament. Emergency powers (defense); the defense regulations, 1939 (being regulations made under the Emergency Powers Act, 1939 . . . together with a table showing the effect of the regulations on the statute-book). London, H.M.S.O., 1939. 113 p. 2s.

Parliament. List of emergency acts and statutory rules and orders up to October 20, 1939. London, H.M.S.O., 1939. 42 p. 3d.

GUATEMALA

Ministerio de relaciones exteriores. Colecciòn de tratados de Guatemala. v. 1, 1939. Guatemala, 1939.

HAITI

La République d'Haiti dans la politique inter-Americaine. New York, Consulate General of Haiti, 1939. 31 p. Text in French and English.

MEXICO

Universidad de Yucatán. Comentarios al artículo veinte de la constitución federal. Tesis presentata por . . . Manuel J. Bautista Gonzales. Yucatan, Imp. Oriente, 30 p.

UNION OF SOVIET SOCIALIST REPUBLICS

Report to the supreme soviet, by V. M. Molotov. (Full text of report made by V. M. Molotov, chairman of people's commissars and people's commissar for foreign affairs of U.S.S.R. to fifth extraordinary session of the supreme soviet on October 31, 1939. New York, Workers' Library, Inc. 1939. 23 p.) (An unofficial publication of an official document.)

AMERICAN NATIONAL COMMITTEE OF INTERNATIONAL INTELLECTUAL COÖPERATION

Subcommittee for the study of copyright. Report on the status of international copyright protection and on the Brussels meeting of the committee of experts. New York, Columbia University Press, 1939. 91 p.

——— Comparative study of copyright protection in Latin America, 1938. 1939. 146 p. (mim.)

PAN AMERICAN UNION

Report on the meeting of the ministers of foreign affairs of the American republics, Panama, September 23–October 3, 1939. Washington, Pan American Union, 1939. 28 p. (Congress and conference series no. 29.)

INTERNATIONAL ALLIANCE OF WOMEN FOR SUFFRAGE AND EQUAL CITIZENSHIP

Report of 13th Congress. Copenhagen, 1939. 122 p. (Text in English, French, and German.)

LEAGUE OF NATIONS

International assistance to refugees. Supplementary report. Geneva, 1939. 5 p. (XII. B. International Bureaux. 1939. XII. B. 4.)